



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JUN 4 2019

UNITED PARCEL SERVICE
EMAIL VERIFICATION REQUESTED

Cody Hale
Owner
Anarchy Diesel Tuning
724 Highway 39 E
Athens, TN 37303

Dear Mr. Hale:

Pursuant to Section 208(a) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7542(a), you are hereby required to provide the U.S. Environmental Protection Agency with information relating to Anarchy Diesel Tuning's business. The EPA is seeking this information to determine whether Anarchy Diesel Tuning is in compliance with requirements of Sections 203(a) and 213(d) of the Act, 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable motor vehicle regulations at 40 C.F.R. Parts 85, 86, and 1068.

The EPA issues this Request for Information under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA, Title II, Part A – Motor Vehicle Emission and Fuel Standards, Sections 202 – 219, 42 U.S.C. §§ 7521-7554, to perform tests and provide information necessary to determine whether the person is acting or has acted in compliance with the CAA and the regulations promulgated thereunder. The Administrator has delegated this authority to the undersigned Director of the Enforcement and Compliance Assurance Division, Region 4.

Please review the following enclosures and complete as appropriate: Instructions (Enclosure 1), Definitions (Enclosure 2), Claiming Confidentiality (Enclosure 3), Request for Information (Enclosure 4), and Statement of Certification (Enclosure 5).

Please submit the requested information to the EPA per the instructions contained in Enclosure 1. Your responses are required to be submitted **no later than thirty (30) calendar** days after Anarchy Diesel Tuning's receipt of this letter. This information must be submitted to the following individual:

Todd Groendyke
ECAD/AEB
U.S. EPA Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Failure to provide the information required by this letter is a violation of the Act and may result in one or more of the following actions: (1) commencement of a civil action seeking compliance with this request pursuant to Section 204 of the Act, 42 U.S.C. § 7523; (2) issuance of an administrative penalty order pursuant to Section 205(c) of the Act, 42 U.S.C. § 7424(c); (3) commencement of a civil action in accordance with Section 205(b) of the Act, 42 U.S.C. § 7524(b); and/or (4) any other action authorized under the Act.

Under Section 208(c) of the Act, 42 U.S.C. § 7542(c), and pursuant to the regulations found at 40 C.F.R. Part 2, Subpart B, including 40 C.F.R. § 2.301, you are entitled to assert a claim of business confidentiality for any information you provide to the EPA which you regard as confidential business information (CBI). For such information, you may request that the EPA treat such information as confidential. Any such claim of confidentiality must conform to the requirements of 40 C.F.R. § 2.203(b). Note that "emission data," as defined by 40 C.F.R. § 2.301(a)(2), cannot be claimed as confidential under Section 208(c) of the Act, 42 U.S.C. § 7542(c). For detailed instructions for claiming confidentiality, please see Enclosure 3. Information you supply under a claim of confidentiality will be treated in accordance with 40 C.F.R. Part 2, Subpart B, and will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to Anarchy Diesel Tuning. Please note that any confidentiality claim does not obviate the need to send that portion of the response to the EPA.

The response to the information requested must be accompanied by Enclosure 5, Statement of Certification, which is to be signed and dated by a responsible official of Anarchy Diesel Tuning. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this request that are known to you, following a complete and thorough review of all information and sources available to you.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 – 3520, because it seeks information from specific individuals or entities as part of an investigation.

If you have any questions regarding this matter, please contact Todd Groendyke at (404) 562-8262.

Sincerely,



Suzanne G. Rubini
Acting Director
Enforcement and Compliance Assurance Division
EPA, Region 4

Enclosures

ENCLOSURE 1

Instructions

Each of the following instructions applies to each and every question contained in Enclosure 4.

1. If the company has no responsive information or documents pertaining to a particular question, submit an affirmative statement and explanation.
2. If your response to a particular question requires a scanned or hardcopy document, you must identify the filename or document title. Make sure to correlate any hardcopy or scanned documents to a specific question. If a document is responsive to more than one question, this must be so indicated and only one copy of the document needs to be provided.
3. Identify each person whom you relied on or consulted with in preparing your responses to each question of this information request. Provide their name, title, job duties and duration of employment with the company. If they are not an employee of the company, identify their employer and provide their name, title, job duties and duration of employment with their employer.
4. Identify each document consulted, examined, or referred to in the preparation of your response or that contains information responsive to the question, and provide a true and correct copy of each such document if not provided in response to another specific question. Indicate on each document produced in response to this information request the number of the question to which it corresponds.
5. If requested information or documents are not known or are not available to you at the time of your response to this information request, but later become known or available to you, you must supplement your response to the EPA within 30 calendar days of discovery of the responsive information. Moreover, should you find at any time after submission of your response that any portion is or becomes false, incomplete or misrepresents the facts, you must provide the EPA with a corrected response as soon as possible.
6. Provide a separate response to each and every question, and each and every subpart of a question.
7. The company may choose to either submit documents in .pdf format or submit documents as hard copy documents. However, electronic submissions are preferred to aid in our electronic recordkeeping efforts. We request that you provide all documents responsive to this information request in an electronic format according to paragraphs a. through f., below. These submissions are in lieu of hard copy.

Electronic Submissions

- a. Provide all responsive documents in searchable Portable Document Format (PDF) or similar format, unless otherwise requested in specific questions. Submitters providing secured PDFs should also provide unsecured versions for EPA use in repurposing text. Do not create separate PDF files for each page of a single document.

- b. When specific questions request data in electronic spreadsheet form, provide the data and corresponding information in editable Excel format, and not in image format. If Excel format is not available, then the format should allow for data to be used in calculations by a standard spreadsheet program such as Excel.
- c. Provide submission on physical media such as compact disk, flash drive or other similar item.
- d. Provide a table of contents for each compact disk or flash drive containing electronic documents submitted in response to our request so that each document can be accurately identified in relation to your response to a specific question. We recommend the use of electronic file folders organized by question number. In addition, each compact disk or flash drive should be labeled appropriately (e.g., Company Name, Disk 1 of 4 for Information Request Response, Date of Response).
- e. Documents claimed as confidential business information (CBI) must be submitted on separate disks/drives apart from the non-confidential information. This will facilitate appropriate records management and appropriate handling and protection of the CBI. Please follow the instructions in Appendix C for designating information as CBI.
- f. Certify that the attached files have been scanned for viruses and indicate what program was used.

ENCLOSURE 2

Definitions

1. The term “**affiliate**” means any organization or entity associated with Anarchy Diesel Tuning as an agent, parent organization, predecessor corporation, sister company, subsidiary organization, or any organization or entity acting in lieu of you.
2. The term “**catalysts**” refers to systems, such as catalytic converters, that contain parts or chemical elements which increase the rate of a chemical reaction but are not one of the original reactants or final products, i.e., are not consumed or altered in the reaction. Catalysts consist of a flow-through structure that is coated with an active metal catalyst and surrounded by a stainless-steel housing.
3. The term “**derate**” or “**derating**” means an electronic control module mode that reduces the engine power or vehicle speed after the On-Board Diagnostic system identifies a problem with the emission control equipment.
4. The term “**diesel particulate filter**” or “**DPF**” refers to an exhaust after-treatment emission control component that physically traps particulate matter (PM) and removes it from the exhaust stream, typically using a porous ceramic or cordierite substrate or metallic filter.
5. The terms “**document**” and “**writing**” and the plural forms thereof shall mean all written, recorded or graphic matters, however produced or reproduced, of every kind and description, pertaining in any way to the subject matter of this request, and which are in the company’s possession, custody or control or to which the company has or has had access. The terms “document” and “writing” shall include, but are not limited to: any receipts; invoices; shipping records; purchase orders; purchase records; books; pamphlets; periodicals; memoranda (including those of telephone or oral conversations); contracts; correspondence; agreements; applications; financial records; security instruments; disbursements; checks; bank statements; time records; accounting or financial records; notes; diaries; logs; facsimiles (faxes); telegrams or cables prepared, drafted, received or sent; electronic mail (email), whether drafted, received or sent; tapes; transcripts; recordings; minutes and notes of meetings; directives; work papers; charts; drawings; prints; flow sheets; photographs; infrared camera recordings; film; computer printouts; x-ray photographs; advertisements; catalogs; data; sampling reports, plans, protocols, reports, analyses; or any handwritten, recorded, transcribed punched, taped, filmed or graphic matter, however produced or reproduced.
6. The term “**electronic control module**” or “**ECM**” means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. ECM programming relies on calculations and tables of information to provide appropriate outputs. ECM can be a generic term but may refer specifically to the engine control module when discussing emission controls on vehicles and engines. ECMs may be incorporated separately with multiple units or may be combined into a single unit.
7. The term “**element of design**” means any control system (e.g., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine, as defined in 40 C.F.R. § 86.094-2.

8. The term “**emission related parts**” means those parts installed for the specific purpose of controlling emissions or those components, systems, or elements of design which must function properly to assure continued vehicle emission compliance.
9. The term “**entity**” means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization, or association.
10. The term “**exhaust gas recirculation**” or “**EGR**” refers to an emission control component that directs a portion of engine exhaust back into the engine’s combustion chamber in order to control combustion temperatures and pressures, thereby reducing the production of nitrogen oxides (NO_x). The EGR system may include a cooler, which cools the recirculated exhaust.
11. The term “**onboard diagnostics**” or “**OBD**” refers to an ECM that monitors emission control and emission-related components and systems along with certain engine components, such as the fuel delivery system and the engine control module. When the OBD detects a malfunction or deterioration that could affect emissions, it illuminates a malfunction indicator light (MIL) and produces diagnostic trouble codes (DTC) to aid in repair.
12. The term “**part or component**” includes any part or component intended for use with, or as part of, a motor vehicle or motor vehicle engine (*e.g.*, ECM, element of design, calibration map, tuner, or software that is installed on or designed for use in such vehicles or engines).
13. The terms “**person**” and/or “**persons**” shall have the meaning set forth in Section 302(e) of the Act, 42 U.S.C. § 7602(e), and includes an individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency, department, or instrumentality of the United States and any officer, agent or employee thereof.
14. The term “**product**” or “**products**” shall mean any service, part or component, or other item(s), including, but not limited to, engine parts, block plates, straight pipes, power packages, computer tuning, calibrations, elements of design, tuners, tunes, software coding, or devices, that are manufactured (*i.e.*, created, written, programmed, fabricated, produced, assembled or modified), purchased, imported, distributed, downloaded, offered for sale, sold, provided, and/or installed.
15. The terms “**relate to**” and/or “**pertain to**” (or any form thereof) shall mean constituting, reflecting, representing, supporting, contradicting, referring to, stating, describing, recording, noting, embodying, containing, mentioning, studying, analyzing, discussing, evaluating or relevant to.
16. The term “**selective catalytic reduction**” or “**SCR**” refers to an emission control component that includes systems (the diesel exhaust fluid (DEF) tank, urea quality sensor, DEF injection system, SCR catalyst(s), and other associated sensors), which inject a reductant, such as DEF, into the exhaust stream where it reacts with catalysts to convert NO_x emissions to nitrogen gas (N₂) and water (H₂O).
17. The term “**service**” means any action to change, affect, modify, bypass, render inoperative, remove, download and/or install one or more part(s) or component(s) (*e.g.*, emission control components) or other item(s), including, but not limited to, engine parts, block plates, straight pipes, power

packages, computer tuning, calibrations, elements of design, tuners, tunes, software, code, or devices.

18. The term **“tuner”** means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (*e.g.*, fuel timing maps), code, or other content stored within or used by an ECM. Also known as a programmer, engine performance tuner, chips, or gauge tuner.
19. The term **“tune”** or **“tunes”** means any software loaded onto a tuner which can alter any aspect of vehicle performance governed by the onboard diagnostic system. For example, a tune can program the OBD to ignore the removal of emission-control devices, change engine timing or fuel management, or change the turbo pressure.
20. The terms **“you”** and/or **“your”** shall mean Anarchy Diesel Tuning (ADT or Company), and all its agents, employees, representatives, investigators, accountants, auditors, attorneys, experts, consultants, and contractors. These terms shall also mean any others who are not listed above and are in possession, custody, or control (actual or constructive) of information relevant to this request or information that is otherwise available to Anarchy Diesel Tuning, or who may have obtained information for or on behalf of Anarchy Diesel Tuning.

All terms not defined in this enclosure have their ordinary meaning, unless such terms are defined in the Clean Air Act and/or its implementing regulations, and in which case the statutory and/or regulatory definitions apply. Words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions. The terms “and” and “or” shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this information request any information which might otherwise be construed to be outside its scope.

ENCLOSURE 3

Confidential Business Information (CBI) Assertion and Substantiation Requirements

A. Assertion Requirements

You may assert a business confidentiality claim covering part or all of the information, other than emissions data and information or data that is otherwise publicly available, as described in 40 C.F.R. § 2.203(b). If no business confidentiality claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice. To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any information over which you make a claim of confidentiality should be marked by placing on or attaching to the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret” or “proprietary” or “business confidential” and a date if any when the information should no longer be treated as confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. Information covered by such a claim will be disclosed by the EPA only to the extent permitted and by means of the procedures set forth by Section 208(c) of the Act, and 40 C.F.R. Part 2, Subpart B.

B. Substantiation Requirements

All confidentiality claims are subject to the EPA verification and must be made in accordance with 40 C.F.R. Part 2, Subpart B. You bear the burden of substantiating your confidentiality claim and must satisfactorily show that disclosure of the information would be likely to cause substantial harm to your business’ competitive position; that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; and that the information is not and has not been reasonably obtainable by legitimate means without your consent, among other things. Conclusory allegations will be given little or no weight.

Before the EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, the EPA will send you a letter asking you to substantiate fully your CBI claim by answering 11 questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. You must provide the EPA with a response within the number of days set forth in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

The EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied. Any information not specifically identified as subject to a confidentiality claim may be disclosed without further notice to you. For each item or class of information that you identify as being confidential, the EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in the EPA’s determination:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. For each item or category of information claimed as confidential, explain with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
8. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
9. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.
10. If you believe any information to be (a) trade secret (s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret (s).
11. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data).

Please note that emission data provided under Section 208 of the Act, 42 U.S.C. § 7542, is not entitled to confidential treatment under 40 C.F.R. Part 2. "Emission data" means, with reference to any source of emission of any substance into the air - (A) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission

which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing; (B) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and (C) a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

ENCLOSURE 4

Request for Information

Anarchy Diesel Tuning shall submit the following information to the EPA, pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, regarding certain parts or components that you either manufactured (i.e., created, wrote, programmed, fabricated, produced, or modified), offered for sale, sold, or installed since January 1, 2018.

1. In an **electronic, unlocked spreadsheet**, identify each part or component manufactured, offered for sale, sold, or installed by Anarchy Diesel Tuning including, but not limited to, engine parts, power packages, computer tuning, calibration, element of design, tuner, tunes, software coding, or device, which:
 - a. Changes, affects, modifies, bypasses, or allows for the deletion or partial deletion of a vehicle's emission related parts including, but not limited to, the following systems:
 - i. diesel particulate filter system ("DPF");
 - ii. exhaust gas recirculation system ("EGR");
 - iii. catalytic converter system ("catalyst");
 - iv. on-board diagnostic system ("OBD");
 - v. selective catalytic reduction system ("SCR"); or
 - vi. sensors, signals, or records related to the DPF, EGR, catalyst, OBD, or SCR.
 - b. Simulates the operation of any emission related parts including, but not limited to, the DPF, EGR, catalyst, OBD, SCR, or sensors, signals, or records related to these systems;
 - c. Can be programed to modify engine operating or emission control parameters or OBD functions including, but not limited to, those parameters sensed or controlled by the electronic control module ("ECM"); or
 - d. Has the effect of permanently or temporarily changing, affecting, bypassing, defeating, or rendering inoperative any emission control device, element of design, or emission related part.
2. In an **electronic, unlocked spreadsheet**, for each part or component that is identified in response to Request 1, answer "Yes" or "No" to the following questions:
 - a. Whether the part or component changes, affects, modifies, bypasses, renders inoperative, or allows for the deletion or partial deletion of a vehicle's DPF.
 - b. Whether the part or component changes, affects, modifies, bypasses, renders inoperative, or allows for the deletion or partial deletion of a vehicle's EGR.
 - c. Whether the part or component changes, affects, modifies, bypasses, renders inoperative, or allows for the deletion or partial deletion of a vehicle's catalyst.
 - d. Whether the part or component changes, affects, modifies, bypasses, renders inoperative,

or allows for the deletion or partial deletion of a vehicle's OBD.

- e. Whether the part or component changes, affects, modifies, bypasses, renders inoperative, or allows for the deletion or partial deletion of a vehicle's SCR.
- f. Whether the part or component changes, affects, modifies, bypasses, renders inoperative, or allows for the deletion or partial deletion of sensors, signals, or records related to the DPF, EGR, catalyst, OBD, or SCR.
- g. Whether the part or component simulates the operation of any emission related parts including, but not limited to, the DPF, EGR, catalyst, OBD, SCR, or sensors, signals, or records related to these systems;
- h. Whether the part or component can be programed to modify engine operating or emission control parameters or OBD functions including, but not limited to, those parameters sensed or controlled by the ECM;
- i. Whether the part or component has the effect of permanently or temporarily changing, affecting, bypassing, defeating, or rendering inoperative any emission control device, element of design, or emission related part;
- j. Whether the part or component is capable of disabling or allowing the removal of the EGR without illuminating a Malfunction Indicator Light ("MIL") or prompting any on-board Diagnostic Trouble Code ("DTC");
- k. Whether the product is capable of disabling or allowing the removal of the EGR without any engine derating;
- l. Whether the product is capable of allowing removal of a DPF without illuminating a MIL or prompting any DTC;
- m. Whether the product is capable of allowing removal of a DPF without any engine derating;
- n. Whether the product is capable of allowing removal of a Diesel Oxidation Catalyst without illuminating a MIL or prompting any DTC;
- o. Whether the product is capable of allowing removal of a Diesel Oxidation Catalyst without any engine derating;
- p. Whether the product is capable of allowing removal of a SCR system without illuminating a MIL or prompting any DTC;
- q. Whether the product is capable of allowing removal of a SCR system without any engine derating;
- r. Whether the product is capable of altering fuel timing maps within engine electronic

calibrations; and

- s. Whether the product is capable of bypassing or altering parameters to prevent DTCs or MILs from being recorded or illuminated.
3. In an **electronic, unlocked spreadsheet**, for each part or component identified in Requests 1 and 2 above, provide the following information in electronic spreadsheet format:
 - a. The name and address of the manufacturer of each part or component;
 - b. The part number or component part number and the identifying name assigned by you, and the manufacturer's or supplier's part number or component part number and identifying name if different than yours;
 - c. The vehicle applications by make, model, fuel type (gasoline or diesel), engine size (in liters), transmission type, and model year;
 - d. A description of what the part or component does and how it operates;
 - e. If the part or component is or comprises a tuner, indicate whether it is sold with pre-loaded tunes;
 - f. The average per-unit cost of the part (in dollars);
 - g. The average per-unit sales price of the part (in dollars);
 - h. The specific dates, between January 1, 2018, and the date of this request, that the part or component was manufactured by you, and the quantity that was manufactured by you, by date;
 - i. The specific dates, between January 1, 2018, and the date of this request, that the part or component was sold or offered for sale by you, and the quantity that was sold or offered for sale by you, by date;
 - j. The specific dates, between January 1, 2018, and the date of this request, that the part or component was installed by you, and the quantity that was installed by you, by date;
 - k. The quantity in inventory at Anarchy Diesel Tuning on the date of the request; and
 - l. The records of any emissions testing or reports regarding any effect on vehicle emissions.
4. For any tests identified in response to Request 3.l. above, provide the following information:
 - a. A description of the test, including identification of the component and vehicle, the EPA engine family, name of the vehicle, test equipment, test protocols, and calibration procedures;

- b. A sample test report and any training or instructional materials used for educating employees and affiliated persons about how to perform the test; and
 - c. The date and location of the test, the name and position of the person that conducted the test, and the test results.
- 5. For each part or component identified in Requests 1 through 3 above, provide the following:
 - a. Copies of your advertisements to sell, distribute, or install each part or component, including advertisements on websites and in other media;
 - b. Copies of any installation or operation instructions, guides, or manuals;
 - c. Copies of receipts or invoices for all parts or components manufactured by you; and
 - d. Copies of receipts or invoices for all parts or components sold by you.
- 6. Identify the name, address, contact person, and phone number of each company or entity to which Anarchy Diesel Tuning provided an invoice or receipt in response to Request 5.c and 5.d.
- 7. Identify the name, address, contact person, and phone number of each company or entity from which Anarchy Diesel Tuning purchased a part or component identified in Requests 1 through 3 above or on whose behalf Anarchy Diesel Tuning sold or distributed a part or component identified in Requests 1 through 3 above.
- 8. For parts or components that are identified in response to Requests 1 through 3 above, state whether you submitted an application for an Executive Order to the California Air Resources Board and provide a copy of the application for each part or component. State whether each component received an Executive Order exempting the component from California's emission control system anti-tampering law, California Vehicle Code § 27156. If the component received an Executive Order, provide the Executive Order number and state whether the California Air Resources Board required you to change the component or application in order to receive approval.
- 9. Provide the name and address of each location where you have stored and are currently storing any of the parts or components identified in response to Requests 1 through 3.
- 10. Provide a complete, unedited copy of every work order or service order and final bill for every vehicle serviced by Anarchy Diesel Tuning between January 1, 2018 and the date of this request, including copies of all attachments.
- 11. Provide the name and address of each location where you have stored and are currently storing any of the records identified in response to Requests 5 and 10.
- 12. If you do not have any of the copies of any of the documents requested in Request 10, above, indicate for each instance why you do not have them.

13. Identify each individual responsible for responding to this Request for Information, including his/her title(s), the request(s) to which each individual responded, and the period of time for which each individual is providing a response.
14. Provide a list of all entities that are affiliates of Anarchy Diesel Tuning including their addresses and telephone numbers. Describe the business relationships between all entities and provide copies of all agreements with those entities. Include a description of both formal and informal agreements, financial inter-relationships, overlap of officers and directors, and any business practices that exist between these entities. For each entity identified, list any and all name variations or business aliases used. Provide a corporate organizational chart showing all of Anarchy Diesel Tuning's affiliates.
15. For each of the entities described in response to Request No. 14, provide certificates of good standing, articles of incorporation, by-laws, and partnership or membership agreements, as applicable.
16. For each of the entities described in response to Request No. 14, provide a list of each entity's officers, directors, shareholders, members, managers, and partners, as applicable.
17. For each of the entities described in response to Request No. 14, provide the entity's net worth or net assets, and annual sales revenue.
18. For each of the entities described in response to Request No. 14, provide the address(es) of any location(s), between January 1, 2018, and the date of this request, where the entities have operated.
19. If corporate changes occurred between January 1, 2018, and the date of this request, including but not limited to changes related to acquisitions, reorganizations, or mergers, describe such changes in narrative form.

ENCLOSURE 5

STATEMENT OF CERTIFICATION

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001, 1341 and 1505.

(Signature)

(Printed Name)

(Title)

(Date)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

NOV 04 2019

UNITED PARCEL SERVICE
EMAIL VERIFICATION REQUESTED

Walter B. Armistead, Owner
Ben's Diesel Performance LLC
311A Forsyth Street
Monticello, Georgia 31064

Dear Mr. Armistead:

Pursuant to Section 208(a) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7542(a), you are hereby required to provide the U.S. Environmental Protection Agency with information relating to Ben's Diesel Performance LLC's (BDP) business. The EPA is seeking this information to determine whether BDP is in compliance with requirements of Sections 203(a) and 213(d) of the Act, 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable motor vehicle regulations at 40 C.F.R. Parts 85, 86, and 1068.

The EPA issues this Request for Information under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA, Title II, Part A – Motor Vehicle Emission and Fuel Standards, Sections 202 – 219, 42 U.S.C. §§ 7521-7554, to perform tests and provide information necessary to determine whether the person is acting or has acted in compliance with the CAA and the regulations promulgated thereunder. The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, Region 4.

Please review the following enclosures and complete as appropriate: Instructions (Enclosure 1), Definitions (Enclosure 2), Claiming Confidentiality (Enclosure 3), Request for Information (Enclosure 4), Statement of Certification (Enclosure 5), and Response Excel Template (Enclosure 6).

Please submit the requested information to the EPA per the instructions contained in Enclosure 1. Your responses are required to be submitted **no later than thirty (30) calendar days** after BDP's receipt of this letter as determined by the date of the Email Verification, unless the EPA, for good cause shown, extends in writing the deadline for responding to the request. This information must be submitted to the following individual:

Todd Groendyke
Air Enforcement Branch
U.S. EPA, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Failure to provide the information required by this letter is a violation of the Act and may result in one or more of the following actions: (1) commencement of a civil action seeking compliance with this request pursuant to Section 204 of the Act, 42 U.S.C. § 7523; (2) issuance of an administrative penalty order pursuant to Section 205(c) of the Act, 42 U.S.C. § 7424(c); (3) commencement of a civil action in accordance with Section 205(b) of the Act, 42 U.S.C. § 7524(b); and/or (4) any other action authorized under the Act.

Under Section 208(c) of the Act, 42 U.S.C. § 7542(c), and pursuant to the regulations found at 40 C.F.R. Part 2, Subpart B, including 40 C.F.R. § 2.301, you are entitled to assert a claim of business confidentiality for any information you provide to the EPA which you regard as confidential business information (CBI). For such information, you may request that the EPA treat such information as confidential. Any such claim of confidentiality must conform to the requirements of 40 C.F.R. § 2.203(b). Note that "emission data," as defined by 40 C.F.R. § 2.301(a)(2), cannot be claimed as confidential under Section 208(c) of the Act, 42 U.S.C. § 7542(c). For detailed instructions for claiming confidentiality, please see Enclosure 3. Information you supply under a claim of confidentiality will be treated in accordance with 40 C.F.R. Part 2, Subpart B, and will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to BDP. Please note that any confidentiality claim does not obviate the need to send that portion of the response to the EPA.

The response to the information requested must be accompanied by Enclosure 5, Statement of Certification, which is to be signed and dated by a responsible official of BDP. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this request that are known to you, following a complete and thorough review of all information and sources available to you.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 – 3520, because it seeks information from specific individuals or entities as part of an investigation.

If you have any questions regarding this matter, please contact Todd Groendyke at (404) 562-8262 or by electronic mail at groendyke.todd@epa.gov.

Sincerely,



Carol L. Kemker
Director
Enforcement and Compliance Assurance Division

Enclosures

ENCLOSURE 1

Instructions

1. Provide a complete, detailed response, in English, to each Request in Enclosure 4.
2. Provide a separate response to each and every question, and each and every subpart of a question.
3. Please provide your response to all questions of this Information Request in electronic form on a disk (CD or DVD media), flash drive, hard drive, or similar digital data storage device. All responsive documents and materials (e.g., copies of print media, audio, and visual material) must be provided as an accurate and legible copy in searchable format, number stamped in sequential order (e.g., BATES stamped).
4. Please provide your responses to Requests 1 through 7 in an unlocked, electronic spreadsheet format. For your convenience, the EPA has provided Enclosure 6 which consists of an Excel template in which you are requested to organize your responses to Requests 1 through 7. If Excel format is not available, then the format should allow for data to be imported and used in calculations by a standard spreadsheet program such as Excel. You may enter your responses directly onto the provided disk or utilize your preferred form of electronic media as described in Instruction 3 above.
5. Identify each person whom you relied on or consulted with in preparing your responses to each question of this information request. Provide their name, title, job duties and duration of employment with the company. If they are not an employee of the company, identify their employer and provide their name, title, job duties and duration of employment with their employer.
6. Where a Request allows or requires documents to be provided in response, provide all documents electronically in a file folder specific to that question or subpart and labeled accordingly.
7. When a response is provided in the form of a number, specify the units of measure.
8. Where documents or information necessary for a response is not in your possession, custody, or control, indicate in your response why such documents or information are not available or in your possession, custody, or control, and identify any source that either possesses or is likely to possess such information.
9. If you assert any objections in responding to this Information Request, each objection must state with specificity the grounds for objecting to the request, including the reasons, and must state whether any responsive materials are being withheld on the basis of that objection.
10. You must promptly supplement your response to any Request in Enclosure 4 in the event you learn that you possess responsive information not yet produced or if you gain possession, custody, or control of responsive information after responding to this Information Request.

ENCLOSURE 2

Definitions

1. The term “affiliated organization” or “affiliate” means any organization or entity associated with Ben’s Diesel Performance LLC as an agent, parent organization, predecessor corporation, sister company, subsidiary organization, or any organization or entity acting in lieu of you.
2. The term “applications” means all vehicle or engine configurations.
3. The term “catalysts” means systems or devices which increase the rate of a chemical reaction but are not one of the original reactants or final products, *i.e.*, the catalyst is not consumed or altered in the reaction. The term “catalysts” includes emission control catalysts such as diesel oxidation catalysts (“DOCs”), NO_x adsorber catalysts (“NACs”), and three-way catalysts (“TWCs”).
4. The term “derate” or “derating” means an electronic control module mode that reduces the engine power or vehicle speed after the OBD system identifies a problem with the emission control equipment.
5. The term “DPF” refers to diesel particulate filters, which are exhaust aftertreatment devices that typically use a porous ceramic or cordierite substrate or metallic filter to physically trap particulate matter (“PM”) and remove it from the exhaust stream.
6. The term “element of design” means any control system (e.g., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine, as defined in 40 C.F.R. §§ 86.094-2 and 86.1803-01.
7. The term “electronic control module” or “ECM” means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. The ECM uses software programming including calculations and tables of information to provide the appropriate outputs. Multiple electronic control modules may be incorporated in a single unit to control various engine, vehicle, or equipment functions. ECM can be a generic term but may refer specifically to the engine control module when discussing emission controls on vehicles and engines. Examples of electronic control modules include, but are not limited to, the Engine Control Module, OBD Control Modules, Powertrain Control Module (“PCM”), Transmission Control Module (“TCM”), Body Control Module (“BCM”) and aftertreatment control module.
8. The term “EM product” means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information stored within or used by an ECM. EM products include, but are not limited to, programmers, modules, tuners, ECM calibration tools, replacement ECMs, flash tools, or engine management products.
9. The term “emission related parts” means those parts installed for the specific purpose of controlling emissions, or those components, systems, or elements of design which must function properly to

assure continued vehicle emission compliance, as defined in 40 C.F.R. § 85.2102.

10. The term “engine tune,” “tune,” or “calibration” means any combination of software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information, stored in any form, capable of affecting or controlling an ECM.
11. The term “entity” means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization or association.
12. The term “exhaust product” means exhaust components designed for use downstream from the exhaust port of a motor vehicle engine, and include, but are not limited to EGR block plates, EGR solution kits, EGR delete kits, EGR reroute kits, non-OEM turbochargers, exhaust replacement pipes, downpipe-back exhaust systems, turbo-back exhaust systems, race pipes, test pipes and straight pipes.
13. The term “exhaust gas recirculation” or “EGR” means systems which redirect, usually by use of an EGR valve, a portion of engine exhaust back into the engine’s combustion chamber to cool and reduce peak combustion temperatures and pressures, thereby reducing the production of nitrogen oxides (“NOx”). The EGR system may include an EGR cooler to cool the recirculated exhaust to further reduce the combustion temperature.
14. The term “information” includes any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intraoffice communications, electronic mail (“email”), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting, or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, presentations, spreadsheets, and worksheets. The term “information” includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term “information” also includes any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back-up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. Information bearing any notation not part of the original text is considered to be separate information. A draft or non-identical copy is separate information within the meaning of this term.
15. The term “manufacture” includes the creation, design, development, alteration, fabrication,

production, or programming of a software code, software, hardware, program, element of design, calibration, engine tune, EM product, engine tuner, device, part, or component.

16. The term “onboard diagnostics” or “OBD” means systems which monitor components’ emission-related systems and assists repair technicians in diagnosing and fixing problems with those emission-related systems. If a problem is detected, an OBD system should record a Diagnostic Trouble Code (“DTC”), illuminate a Malfunction Indicator Light (“MIL”) or other warning lamp on the vehicle instrument panel, and/or provide information to the ECM which induces Engine Derate due to malfunctioning or missing emission-related systems.
17. The term “person” includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
18. The term “product” includes any software code, software, hardware, program, element of design, calibration, engine tune, EM product, device, part or component.
19. The term “you,” “your,” and “BDP” means Ben’s Diesel Performance LLC and any affiliates, predecessors, successors, assignees, agents, employees, representatives, investigators, accountants, auditors, attorneys, experts, consultants, and contractors. These terms shall also mean any others who are not listed above and are in possession, custody, or control (actual or constructive) of information relevant to this request or information that is otherwise available to Ben’s Diesel Performance LLC, or who may have obtained information for or on behalf of Ben’s Diesel Performance LLC
20. The term “SCR system” refers to the selective catalytic reduction system, which is an exhaust aftertreatment device designed to reduce NOx emissions by injecting a liquid reagent through a catalyst.
21. The term “service” means any action to change, affect, modify, bypass, render inoperative, remove, download and/or install one or more part(s) or component(s) (e.g., emission control components) or other item(s), including, but not limited to, engine parts, block plates, straight pipes, power packages, computer tuning, calibrations, elements of design, tuners, tunes, software, code, or devices.

All terms not defined in this enclosure have their ordinary meaning, unless such terms are defined in the Clean Air Act and/or its implementing regulations, and in which case the statutory and/or regulatory definitions apply. Words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions. The terms “and” and “or” shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this information request any information which might otherwise be construed to be outside its scope.

ENCLOSURE 3

Confidential Business Information (CBI) Assertion and Substantiation Requirements

A. Assertion Requirements

You may assert a business confidentiality claim covering part or all of the information, other than emissions data and information or data that is otherwise publicly available, as described in 40 C.F.R. § 2.203(b). If no business confidentiality claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice. To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any information over which you make a claim of confidentiality should be marked by placing on or attaching to the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret" or "proprietary" or "business confidential" and a date if any when the information should no longer be treated as confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. Information covered by such a claim will be disclosed by the EPA only to the extent permitted and by means of the procedures set forth by Section 208(c) of the Act, and 40 C.F.R. Part 2, Subpart B.

B. Substantiation Requirements

All confidentiality claims are subject to the EPA verification and must be made in accordance with 40 C.F.R. Part 2, Subpart B. You bear the burden of substantiating your confidentiality claim and must satisfactorily show that disclosure of the information would be likely to cause substantial harm to your business' competitive position; that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; and that the information is not and has not been reasonably obtainable by legitimate means without your consent, among other things. Conclusory allegations will be given little or no weight.

Before the EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, the EPA will send you a letter asking you to substantiate fully your CBI claim by answering 11 questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. You must provide the EPA with a response within the number of days set forth in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

The EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied. Any information not specifically identified as subject to a confidentiality claim may be disclosed without further notice to you. For each item or class of information that you identify as being confidential, the

EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in the EPA's determination:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. For each item or category of information claimed as confidential, explain with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
8. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
9. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.
10. If you believe any information to be (a) trade secret (s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret (s).
11. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data).

Please note that emission data provided under Section 208 of the Act, 42 U.S.C. § 7542, is not entitled to confidential treatment under 40 C.F.R. Part 2. "Emission data" means, with reference to any source of emission of any substance into the air - (A) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing; (B) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and (C) a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).
40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

ENCLOSURE 4

Request for Information

Ben's Diesel Performance LLC shall submit the following information to the EPA, pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, regarding certain parts or components that you either manufactured (i.e., created, wrote, programmed, fabricated, produced, or modified), offered for sale, sold, or installed since October 1, 2018.

Provide the following information in Enclosure 6, worksheet 1.

1. Identify each EM product BDP manufactured, sold, offered for sale, or installed during the period from October 1, 2018, through the date of this letter, in Enclosure 6, worksheet 1, and provide the:
 - a. Part Number, Item Code, or other unique identifier used by BDP;
 - b. Product name;
 - c. Product manufacturer (if different);
 - d. Identify the product's applications by vehicle type, make, model, and year;
 - e. Quantity BDP sold during the period October 1, 2018, through the date of this Information Request;
 - f. Average BDP sale price;
 - g. Indicate if you advertised this product and provide the electronic file names of each advertisement (if applicable);
 - h. Identify whether the product affects or changes fuel delivery rate, timing of mixtures, diagnostics, turbo boost, or other engine parameters or calibrations.
 - i. Describe how the product differs from the stock components it replaces or specifically changes the stock configuration. You may provide owner's or installation manuals for a product in lieu of a narrative description if you identify the electronic names of the files.
 - j. Is the product sold with or without the following:
 - i. Tunes;
 - ii. Tunes from the EM product manufacturer;
 - iii. Tunes manufactured by you;
 - iv. Tunes manufactured by you sold without an EM product (i.e. calibration file only);
 - v. If no to i – iv, describe the product in detail.
 - k. If the product includes a tune manufactured by you provide the following:
 - i. The software used to develop the tune;
 - ii. The developer of the software; and
 - iii. A list of compatible EM products.
 - l. Does the product permanently or temporarily change, affect, or bypass a motor vehicle's emission related parts, including but not limited to the:
 - i. EGR;
 - ii. DPF
 - iii. SCR;
 - iv. catalyst;
 - v. OBD; or

- vi. any sensors, signals, or records related to these systems;
 - m. Indicate whether the product modifies, interferes, or overrides the vehicles' OBD system;
 - n. Indicate whether the product replaces or overwrites an ECM;
 - o. Indicate whether, together with the addition, modification, or removal of a motor vehicle's parts, the product has the effect to permanently or temporarily change, affect, bypass, defeat, or render inoperative a motor vehicle emission control device or emission related part; and
 - p. Quantity company installed during the period October 1, 2018, through the date of this Information Request.
2. For each product identified in response to Request 1, indicate in Enclosure 6, worksheet 1 whether:
- a. the product is capable of disabling the EGR without illuminating a MIL or prompting any on-board DTC;
 - b. BDP has sold a version of the product that, upon installation and without post-sale modification of the product, disables or allows the end user to disable the EGR without illuminating a MIL or prompting any DTC;
 - c. the product is capable of disabling the EGR without any engine derating;
 - d. BDP has sold a version of the product that, upon installation and without post-sale modification of the product, disables or allows the end user to disable the EGR without any engine derating;
 - e. the product is capable of allowing the removal of the EGR without illuminating a MIL or prompting any on-board DTC;
 - f. BDP has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the EGR without illuminating a MIL or prompting any DTC;
 - g. the product is capable of allowing the removal of the EGR without any engine derating;
 - h. BDP has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the EGR without any engine derating;
 - i. the product is capable of allowing removal of a DPF without illuminating a MIL or prompting any DTC;
 - j. BDP has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the DPF without illuminating a MIL or prompting any DTC;
 - k. the product is capable of allowing removal of a DPF without any engine derating;
 - l. BDP has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a DPF without any engine derating;
 - m. the product is capable of disabling or allowing removal of a SCR system without illuminating a MIL or prompting any DTC;
 - n. BDP has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a SCR system without illuminating a MIL or prompting any DTC;
 - o. the product is capable of allowing removal of a SCR system without any engine derating;
 - p. BDP has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a SCR system without any engine derating;

- q. the product is capable of allowing removal of a catalyst without illuminating a MIL or prompting any DTC;
 - r. BDP has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a catalyst without illuminating a MIL or prompting any DTC;
 - s. the product is capable of allowing removal of a catalyst without any engine derating;
 - t. BDP has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a catalyst without any engine derating;
 - u. BDP has sold a version of the product that, upon installation and without post-sale modification of the product, alters fuel timing maps within engine electronic calibrations;
 - v. the product is capable of bypassing or altering parameters to prevent DTCs or MILs from being recorded or illuminated; and
 - w. BDP has sold a version of the product that, upon installation and without post-sale modification of the product, prevents DTCs or MILs from being recorded or illuminated.
3. For each product identified in response to Request 1 which BDP sold during the period October 1, 2018, through the date of this Information Request, provide all sales information using the format provided in Enclosure 6, worksheet 2. BDP may provide the requested information in an electronic spreadsheet exported from an invoice management program such as QuickBooks in lieu of using Enclosure 6, worksheet 2.
4. Identify each exhaust product manufactured, sold, offered for sale, or installed during the period from October 1, 2018, through the date of this letter, in Enclosure 6, worksheet 3, and provide the:
- a. Part Number, Item Code, or other unique identifier used by BDP;
 - b. Product name;
 - c. Product manufacturer (if different);
 - d. Identify the product's applications by vehicle type, make, model, and year;
 - e. Quantity BDP sold during the period October 1, 2018, through the date of this Information Request;
 - f. Average BDP sale price;
 - g. Indicate if you have advertised this product and provide electronic file names of each advertisement (if applicable);
 - h. Describe how the product differs from the stock components it replaces or specifically changes the stock configuration. You may provide owner's or installation manuals for a product in lieu of a narrative description if you identify the electronic names of the files.
 - i. Does the product permanently or temporarily changes, affects, or bypasses a motor vehicle's emission related parts, including but not limited to the:
 - i. EGR;
 - ii. DPF;
 - iii. SCR;
 - iv. Catalyst;
 - v. OBD; or
 - vi. any sensors, signals, or records related to these systems;
 - j. Indicate whether, together with the addition, modification, or removal of a motor vehicle's parts, the product has the effect to permanently or temporarily change, affect,

- bypass, defeat, or render inoperative a motor vehicle emission control device or emission related part; and
- k. Quantity BDP installed during the period October 1, 2018, through the date of this Information Request.
5. For each product identified in response to Request 4 which BDP sold during the period October 1, 2018, through the date of this Information Request, provide all sales information using the format provided in Enclosure 6, worksheet 4. BDP may provide the requested information in an electronic spreadsheet exported from an invoice management program such as QuickBooks in lieu of using Enclosure 6, worksheet 4.

Provide the following information in Enclosure 6, worksheet 5.

6. For products identified in response to Requests 1 and 4, state whether BDP or any other entity conducted tests measuring emissions of hydrocarbons, carbon monoxide, nitrogen oxides, or particulate matter, including tests that measure the impact of the product on motor vehicle emissions or that measure the impact of the product on a vehicle's emission control devices or elements of design. For each such test, provide the following information:
- a description of the test, including identification of the product and vehicle, the EPA engine family, name of the vehicle, test equipment, test protocols, and calibration procedures;
 - any training or instructional materials used for educating employees and affiliates about how to perform the test; and
 - the date and location of the test, the name and position of the person that conducted the test, and the test results.
7. For products that are identified in response to Requests 1 and 4:
- State whether BDP or any other entity submitted an application for an Executive Order to the California Air Resources Board;
 - if so, provide a copy of the application for each product.
 - State whether each product received an Executive Order exempting the product from California's emission control system anti-tampering law, California Vehicle Code § 27156.
 - If the product received an Executive Order, provide the Executive Order number; and
 - If the product received an Executive Order, state whether the California Air Resources Board required changes to the product or application to receive approval.

Provide the following information.

8. Provide a complete, unedited copy of every estimate, work order, invoice and bill of sale for every vehicle serviced by BDP between October 1, 2018 and the date of this request, including copies of all attachments.
9. For each product identified in response to Requests 1 and 4:
- provide a detailed written description of all methods by which the product has been promoted or publicized by BDP, including but not limited to, print media, commercial

- websites, point-of-sale webpages, event promotion or sponsorship, trade show promotion, or social media promotion, including promotion dates and/or date ranges, if applicable;
 - b. provide copies of all advertisements for the product published in print or electronic media, including commercial websites, point-of-sale webpages, or social media;
 - c. provide a list of other entities known to have advertised the product; and
 - d. provide all manuals available (e.g., owner's and installation).
10. Provide a detailed, written description of BDP's business structure including ownership, corporate form, parent, sister and/or subsidiary companies, and affiliated organizations.
11. Provide the location of all warehouses or storage facilities where BDP stores products.
12. Provide a detailed, written description of BDP's business relationship with Diesel Powerplant located at 41 GA-212 in Covington, Georgia. Include a description of both formal and informal agreements, financial inter-relationships, leasing or warehousing agreements, overlap of officers and directors, and any business practices that exist between these entities.

ENCLOSURE 5

STATEMENT OF CERTIFICATION

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001, 1341 and 1505.

(Signature)

(Printed Name)

(Title)

(Date)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

SEP 4 2019

UNITED PARCEL SERVICE
EMAIL VERIFICATION REQUESTED

Derek Dobson
Dale's Billet Sales, LLC, d/b/a Dale's Super Store
and Outlaw Diesel
1881 Barber Road, #1
Sarasota, Florida 34240
Dear Mr. Dobson:

Pursuant to Section 208(a) of the Clean Air Act (the Act), 42 U.S.C. § 7542(a), you are hereby required to provide the U.S. Environmental Protection Agency with information relating to Dale's Billet Sales, LLC, d/b/a Dale's Super Store and Outlaw Diesel's business. The EPA is seeking this information to determine whether you and/or Dale's Billet Sales, LLC, d/b/a Dale's Super Store and Outlaw Diesel are in compliance with requirements of Sections 203(a) and 213(d) of the Act, 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable motor vehicle regulations at 40 C.F.R. Parts 85, 86, and 1068.

This Request for Information is a follow-up to the EPA's Request for Information issued to you on January 3, 2017, of which your counsel Kyle B. Beall provided the EPA with a response on your behalf on February 10, 2017. We have reviewed your February 10, 2017 response and found it to be deficient in multiple aspects. Deficiency examples included: failure to provide a complete response to Question 2 of the Request for Information, responses reported as pdf files were cut off and incomplete, many of the sales and purchase records provided did not include product names or descriptions and did not identify specific numbers and dates for each product sold or purchased, eBay transaction information provided was insufficient to connect to the sale of specific products, and various blank pages (or pages with a single line of incomplete information) were reported. A primary purpose of this letter is to follow-up on these deficiencies observed, as well as obtain supplemental information concerning your compliance with the Act since our previous request. Accompanying this letter, we are providing you with a spreadsheet format this time around to facilitate your responses. We would also like to notify you that since our last communication with you in connection to this matter, EPA has transferred this matter for investigation by the EPA Region 4 Office. Please ensure communication on this matter is directed to EPA's Region 4 Office moving forward.

The EPA issues this Request for Information under Section 208(a) of the Act, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the Act, Title II, Part A – Motor Vehicle Emission and Fuel Standards, Sections 202 – 219, 42 U.S.C. §§ 7521-7554, to perform tests and provide information necessary to determine whether the person is acting or has acted in compliance with the Act and the regulations promulgated thereunder. The Administrator has delegated this authority to the undersigned

Director of the Enforcement and Compliance Assurance Division, Region 4.

Please review and follow the instructions herein and, where required, complete the following enclosures: Instructions (Enclosure 1), Definitions (Enclosure 2), Claiming Confidentiality (Enclosure 3), Request for Information (Enclosure 4), Statement of Certification (Enclosure 5) and Compact Disc (Enclosure 6).

The requested information shall be submitted to the EPA per Enclosure 1. The responses shall be submitted **no later than thirty (30) calendar** days as described in Enclosure 4 after Dale's Billet Sales, LLC, d/b/a Dale's Super Store and Outlaw Diesel's receipt of this letter as determined by the date of the email verification of the delivery from the parcel delivery service. This information must be submitted to the following individual:

Rosalyn Hughes Fairley
ECAD/AEB
U.S. EPA Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Failure to provide the information required by this letter is a violation of the Act and may result in one or more of the following actions: (1) commencement of a civil action seeking compliance with this request pursuant to Section 204 of the Act, 42 U.S.C. § 7523; (2) issuance of an administrative penalty order pursuant to Section 205(c) of the Act, 42 U.S.C. § 7424(c); (3) commencement of a civil action in accordance with Section 205(b) of the Act, 42 U.S.C. § 7524(b); and/or (4) any other action authorized under the Act.

Under Section 208(c) of the Act, 42 U.S.C. § 7542(c), and pursuant to the regulations found at 40 C.F.R. Part 2, Subpart B, including 40 C.F.R. § 2.301, you are entitled to assert a claim of business confidentiality for any information you provide to the EPA that involves trade secrets and which Dale's Billet Sales, LLC, d/b/a Dale's Super Store and Outlaw Diesel regards as confidential business information (CBI). For such information, you may request that the EPA treat such information as confidential. Any such claim of confidentiality must conform to the requirements of 40 C.F.R. § 2.203(b). Note that "emission data," as defined by 40 C.F.R. § 2.301(a)(2), cannot be claimed as confidential under Section 208(c) of the Act, 42 U.S.C. § 7542(c). For detailed instructions for claiming confidentiality, please see Enclosure 3. Information you supply under a claim of confidentiality will be treated in accordance with 40 C.F.R. Part 2, Subpart B, and will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to Dale's Billet Sales, LLC, d/b/a Dale's Super Store and Outlaw Diesel. Please note that any confidentiality claim does not obviate the need to send that portion of the response to the EPA.

The response to the information requested must be accompanied by Enclosure 5, Statement of Certification, which is to be signed and dated by a responsible official of Dale's Billet Sales.

LLC, d/b/a Dale's Super Store and Outlaw Diesel. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this request that are known to you, following a complete and thorough review of all information and sources available to you.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 – 3520, because it seeks information from specific individuals or entities as part of an investigation. If you have any questions regarding this matter, please contact Rosalyn Hughes Fairley at (404) 562-9206.

Sincerely,



Suzanne G. Rubini
Acting Director
Enforcement and Compliance Assurance
Division

Enclosures

cc: Kyle B. Beall
Attorney At Law

ENCLOSURE 1

Instructions

- Each of the following instructions applies to each and every question contained in Enclosure 4.
1. This Request for Information is a continuing request. You must promptly supplement your response to any request in Enclosure 4 in the event you learn that you possess responsive information not yet produced or if you gain possession, custody, or control of responsive information after initially responding to this Request for Information.
 2. Where you have previously submitted information to the EPA that is also the subject of these requests, re-submit that information in accordance with these instructions (Enclosure 1). Identify the material that was previously provided, the date on which it was provided, how the information was provided (e.g., electronically, fax, mail), and the individual at EPA to whom it was provided
 3. Provide a complete, detailed response, in English, to each of the requests in Enclosure 4, below.
 4. If the company has no responsive information or documents pertaining to a particular question, submit an affirmative statement and explanation.
 5. If your response to a particular question requires a scanned or hardcopy document, you must identify the filename or document title. Make sure to correlate any hardcopy or scanned documents to a specific question. If a document is responsive to more than one question, this must be so indicated and only one copy of the document needs to be provided.
 6. Identify each person whom you relied on or consulted with in preparing your responses to each question of this information request. Provide their name, title, job duties and duration of employment with the company. If they are not an employee of the company, identify their employer and provide their name, title, job duties and duration of employment with their employer.
 7. Identify each document consulted, examined, or referred to in the preparation of your response or that contains information responsive to the question, and provide a true and correct copy of each such document if not provided in response to another specific question. Indicate on each document produced in response to this information request the number of the question to which it corresponds.
 8. If requested information or documents are not known or are not available to you at the time of your response to this information request, but later become known or available to you, you must supplement your response to the EPA within 30 calendar days of discovery of the responsive information. Moreover, should you find at any time after submission of your response that any portion is or becomes false, incomplete or misrepresents the facts, you must provide the EPA with a corrected response as soon as possible.
 9. For each answer, please provide the number of the request to which it responds and identify each person who provided information that was used to prepare that

answer. For each document produced, please provide the number of the request to which it responds. Where information is responsive to more than one numbered request, provide that information only once, but indicate on the responsive material the numbers of all requests to which the information is responsive.

10. When a response includes a quantity with units of measure, specify the units of measure.

11. Enclosure 6, which is on the enclosed compact disc, consists of an Excel workbook. You are requested to organize your responses to Requests 1 through 11 in the Excel workbook. Based on your website, three (3) worksheets in the workbook have been populated with a portion of the products (Competition Kits with Full Exhaust, Competition Kits with Race Pipes, and Exhaust Gas Recirculation Kits) you sell related to this request. Please continue to populate the workbook with your responses to Request 1 through 11 in accordance with the instructions. Requests 1 through 11 are summarized in Enclosure 6 for your convenience only. The request summaries in Enclosure 6 are not substitutes for the full text of the requests in Enclosure 4.

12. The company may choose to either submit documents in .pdf format or submit documents as hard copy documents. However, electronic submissions are preferred to aid in our electronic recordkeeping efforts. We request that you provide all documents responsive to this information request in an electronic format according to paragraphs a. through f., below. These submissions are in lieu of hard copy.

Electronic Submissions

- a. Provide all responsive documents in searchable Portable Document Format (PDF) or similar format, unless otherwise requested in specific questions. Submitters providing secured PDFs should also provide unsecured versions for EPA use in repurposing text. Do not create separate PDF files for each page of a single document.
- b. When specific questions request data in electronic spreadsheet form, provide the data and corresponding information in editable Excel format, and not in image format. If Excel format is not available, then the format should allow for data to be used in calculations by a standard spreadsheet program such as Excel.
- c. Provide submission on physical media such as compact disk, flash drive or other similar item.
- d. Provide a table of contents for each compact disk or flash drive containing electronic documents submitted in response to our request so that each document can be accurately identified in relation to your response to a specific question. We recommend the use of electronic file folders organized by question number. In addition, each compact disk or flash drive should be labeled appropriately (e.g., Company Name, Disk 1 of 4 for Information Request Response, Date of Response).
- e. Documents claimed as confidential business information (CBI) must be submitted on separate disks/drives apart from the non-confidential information. This will facilitate

- appropriate records management and appropriate handling and protection of the CBI. Please follow the instructions in Appendix C for designating information as CBI.
- f. Certify that the attached files have been scanned for viruses and indicate what program was used.

ENCLOSURE 2

Definitions

All terms not defined in this enclosure have their ordinary meaning, unless such terms are defined in the Clean Air Act and/or its implementing regulations, and in which case the statutory and/or regulatory definitions apply. Words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions. The terms "and" and "or" shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this information request any information which might otherwise be construed to be outside its scope

1. The term "**catalysts**" refers to systems, such as catalytic converters, that contain parts or chemical elements which increase the rate of a chemical reaction but are not one of the original reactants or final products, i.e., are not consumed or altered in the reaction. Catalysts consist of a flow-through structure that is coated with an active metal catalyst and surrounded by a stainless steel housing. They are commonly used by motor vehicle manufacturers as emission related parts.

2. The term "**diesel particulate filter**" or "**DPF**" refers to an exhaust after-treatment emission related part that physically traps particulate matter (PM) and removes it from the exhaust stream, typically using a porous ceramic or cordierite substrate or metallic filter.

3. The term "**diesel oxidation catalyst**" or "**DOC**" refers to a catalyst promoting oxidation processes in diesel exhaust. It is usually designed to reduce emissions of the organic fraction of diesel particulates, gas-phase hydrocarbons, and carbon monoxide. DOCs are also NRCs (NOx reduction catalysts). They are similar to catalytic converters but are present in a diesel exhaust system. They are commonly used by diesel engine manufacturers as emission related parts.

4. The terms "**document**" and "**writing**" and the plural forms thereof shall mean all written, recorded or graphic matters, however produced or reproduced, of every kind and description, pertaining in any way to the subject matter of this request, and which are in the company's possession, custody or control or to which the company has or has had access. The terms "document" and "writing" shall include, but are not limited to: any receipts; invoices; shipping records; purchase orders; purchase records; books; pamphlets; periodicals; memoranda (including those of telephone or oral conversations); contracts; correspondence; agreements; applications; financial records; security instruments; disbursements; checks; bank statements; time records; accounting or financial records; notes; diaries; logs; facsimiles (faxes); telegrams or cables prepared, drafted, received or sent; electronic mail (email), whether drafted, received or sent; tapes; transcripts; recordings; minutes and notes of meetings; directives; work papers; charts; drawings; prints; flow sheets; photographs; infrared camera recordings; film; computer printouts; x-ray photographs; advertisements; catalogs; data; sampling reports; plans, protocols, reports, analyses; or any handwritten,

11. The term **"exhaust gas recirculation"** or **"EGR"** refers to an emission related part that directs a portion of engine exhaust back into the engine's combustion chamber in order to control combustion temperatures and pressures, thereby reducing the production of nitrogen oxides (NO_x). The EGR system may include a cooler, which cools the recirculated exhaust.

10. The term **"engine tune(s)"** or **"tune(s)"** means any software loaded onto a tuner which can alter any aspect of vehicle performance governed by the onboard diagnostic system. For example, a tune can program the OBD to ignore the removal of emission related parts, change engine timing or fuel management, or change the turbo pressure.
 9. The term **"engine tuner"** or **"tuner"** means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), code, or other content stored within or used by an ECM. Also known as a programmer, engine performance tuner, diagnostic device, chips, or gauge tuner.
 8. The term **"engine derate"** or **"limp-home mode"** means an ECM mode that reduces the engine power after the OBD system identifies a problem with an emission related part.
 7. The term **"emission related parts"** means those parts installed for the specific purpose of controlling emissions or those components, systems, or elements of design which must function properly to assure continued vehicle emission compliance.
40 C.F.R. § 85.2102(a)(14).
 6. The term **"element of design"** means any control system (e.g., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine, as defined in 40 C.F.R. § 86.094-2 and 86.1803.1.
 5. The term **"electronic control module"** or **"ECM"** means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. ECM programming relies on calculations and tables of information to provide appropriate outputs. ECM can be a generic term but may refer specifically to the engine control module when discussing emission controls on vehicles and engines. ECMs may be incorporated separately with multiple units or may be combined into a single unit. Examples of ECMs include, but are not limited to, the Engine Control Module, OBD Control Modules, Powertrain Control Module ("PCM"), Transmission Control Module ("TCM"), Body Control Module ("BCM") and aftertreatment control module.
- reproduced.
- recorded, transcribed punched, taped, filmed or graphic matter, however produced or

12. The term **"manufacture"** includes the creation, design, development, alteration, fabrication, production, or programming of a software code, software, hardware, program, element of design, calibration, engine tune, engine tuner, device, part, or component.
13. The term **"onboard diagnostics"** or **"OBD"** refers to an ECM that monitors emission control and emission related parts and systems along with certain engine components, such as the fuel delivery system. When the OBD detects a malfunction or deterioration that could affect emissions, it illuminates a malfunction indicator light (MIL) and produces diagnostic trouble codes (DTC) to aid in repair.
14. The term **"part or component"** includes any part or component intended for use with, or as part of, a motor vehicle or motor vehicle engine (e.g., ECM, element of design, calibration map, tuner, or software that is installed on or designed for use in such vehicles or engines).
15. The terms **"person"** and/or **"persons"** shall have the meaning set forth in Section 302(c) of the Act, 42 U.S.C. § 7602(c), and includes an individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency, department, or instrumentality of the United States and any officer, agent or employee thereof.
16. The term **"product"** or **"products"** shall mean any service, part or component, or other item(s), including, but not limited to, engine parts, block plates, straight pipes, power packages, computer tuning, calibrations, elements of design, tuners, tunes, software coding, or devices, that are manufactured (*i.e.*, created, written, programmed, fabricated, produced, assembled or modified), purchased, imported, distributed, downloaded, offered for sale, sold, provided, and/or installed.
17. The terms **"relate to"** and/or **"pertain to"** (or any form thereof) shall mean constituting, reflecting, representing, supporting, contradicting, referring to, stating, describing, recording, noting, embodying, containing, mentioning, studying, analyzing, discussing, evaluating or relevant to.
18. The term **"selective catalytic reduction"** or **"SCR"** refers to an emission related part that includes systems (the diesel exhaust fluid (DEF) tank, urea quality sensor, DEF injection system, SCR catalyst(s), and other associated sensors), which inject a reductant, such as DEF, into the exhaust stream where it reacts with catalysts to convert NO_x emissions to nitrogen gas (N₂) and water (H₂O).
19. The term **"service"** means any action to change, affect, modify, bypass, render inoperative, remove, download and/or install one or more part(s) or component(s) (e.g., emission related parts) or other item(s), including, but not limited to, engine parts, block plates, straight pipes, power packages, computer tuning, calibrations, elements of design, tuners, tunes, software, code, or devices.

20. The terms “you”, “your”, and/or “Dale’s” shall mean Derek Dobson, Dale’s Billet Sales, LLC d/b/a Dale’s Super Store (www.dalessuperstore.com) and Outlaw Diesel (www.outlawdiesel.com), and all agents, employees, representatives, investigators, accountants, auditors, attorneys, experts, consultants and contractors of Derek Dobson and Dale’s. These terms shall also mean any others who are not listed above and are in possession, custody, or control (Actual or constructive) of information relevant to this request or information that is otherwise available to Derek Dobson, Dale’s Billet Sales, LLC d/b/a Dale’s Super Store (www.dalessuperstore.com) and Outlaw Diesel (www.outlawdiesel.com), or who may have obtained information for or on behalf of Derek Dobson, Dale’s Billet Sales, LLC d/b/a Dale’s Super Store (www.dalessuperstore.com) and Outlaw Diesel (www.outlawdiesel.com).

ENCLOSURE 3

Confidential Business Information (CBI) Assertion and Substantiation Requirements

A. Assertion Requirements

You may assert a business confidentiality claim covering part or all of the information, other than emissions data and information or data that is otherwise publicly available, as described in 40 C.F.R. § 2.203(b). If no business confidentiality claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice. To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any information over which you make a claim of confidentiality should be marked by placing on or attaching to the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret" or "proprietary" or "business confidential" and a date if any when the information should no longer be treated as confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. Information covered by such a claim will be disclosed by the EPA only to the extent permitted and by means of the procedures set forth by Section 208(c) of the Act, and 40 C.F.R. Part 2, Subpart B.

B. Substantiation Requirements

All confidentiality claims are subject to verification by the EPA and must be made in accordance with 40 C.F.R. Part 2, Subpart B. You bear the burden of substantiating your confidentiality claim and must satisfactorily show that disclosure of the information would be likely to cause substantial harm to your business' competitive position; that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; and that the information is not and has not been reasonably obtainable by legitimate means without your consent, among other things. Conclusive allegations will be given little or no weight. Before the EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, the EPA will send you a letter asking you to substantiate fully your CBI claim by answering 11 questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. You must provide the EPA with a response within the number of days set forth in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

The EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied. Any information not specifically identified as subject to a

confidentiality claim may be disclosed without further notice to you. For each item or class of information that you identify as being confidential, the EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in the EPA's determination:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. For each item or category of information claimed as confidential, explain with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
8. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
9. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.

10. If you believe any information to be (a) trade secret(s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret(s).

11. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data).

Please note that emission data provided under Section 208 of the Act, 42 U.S.C. § 7542, is not entitled to confidential treatment under 40 C.F.R. Part 2. "Emission data" means, with reference to any source of emission of any substance into the air - (A) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing; (B) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and (C) a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source). 40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

ENCLOSURE 4

Information Request

Provide the following information in the spreadsheet titled Dales, included on the disc in Enclosure 6.

1. In Worksheet 1, identify each product that Dale's manufactured, sold, installed, or offered for sale during the period January 1, 2017, through the date of this Information Request, that, individually or in conjunction with other products:
 - a. permanently or temporarily bypasses, removes, deletes, replaces, or interferes with a motor vehicle's emission related parts, including, but not limited to, the EGR, DPF, DOC, OBD system, SCR system, or any sensors, signals, or records related to those systems; or
 - b. bypasses, removes, deletes, replaces, reprograms, overwrites, or interferes with a motor vehicle's ECM, software programming, or calibrations.
- Examples of such products include, but are not limited to, tuners, tunes, block off plates, re-route plates, re-route pipes, performance exhaust systems, delete pipes, race pipes, straight pipes, upgrade pipes, delete kits, or upgrade kits.
- In Worksheet 1, EPA has pre-populated certain products from your previous response and from products we have found on your website. We request that you provide additional information as requested below in connection with this Request 1. However, your response regarding Request 1 is not to be limited to these pre-populated products and must include all products that are responsive to Request 1.

2. For each product identified in response to Request 1 above, provide the following in Worksheet 1:
 - a. Part Number, Item Code, or other unique identifier used by Dale's;
 - b. product manufacturer;
 - c. price Dale's paid for each product;
 - d. name of each person or entity who Dale's purchased each product from;
 - e. quantity Dale's manufactured or sold during the period January 1, 2017, through the date of this Information Request;
 - f. average Dale's sale price;
 - g. quantity Dale's installed during the period January 1, 2017, through the date of this Information Request; and
 - h. California Air Resources Board Executive Order number, if any.

3. For each product identified in response to Request 1, provide the following in Worksheet 1: product's vehicle applications by make, model, engine type, and year.
4. For each product identified in response to Request 1, indicate in Worksheet 1 whether Dale's indicated to customers that the product is only for testing, maintenance, racing, off-road, or other restricted use.

5. For each product identified in response to Request 1, indicate in Worksheet 1 whether:
 - a. it physically affects the EGR System;
 - b. it physically affects the exhaust and exhaust aftertreatment system;
 - c. it physically affects the ECM, OBD system, or related sensors;
 - d. it is a tuner sold without tunes;
 - e. it is a tuner sold with tunes;
 - f. it is a tune sold without a tuner; or
 - g. if the answer to all the previous six questions is no, describe the product in detail.
6. For each product identified in response to Request 1 that is a tune sold without a tuner, identify all compatible tuners in Worksheet 1.
7. For each product identified in response to Request 1 that is a tune or a tuner sold with tunes, indicate in Worksheet 1 whether the product, upon installation and without post-sale modification, does or is capable of doing the following:
 - a. disabling the EGR without illuminating a MIL or prompting any on-board DTC;
 - b. disabling the EGR without any engine derating;
 - c. allowing the removal of the EGR without illuminating a MIL or prompting any on-board DTC;
 - d. allowing the removal of the EGR without any engine derating;
 - e. allowing removal of a DPF without illuminating a MIL or prompting any DTC;
 - f. allowing removal of a DPF without any engine derating;
 - g. allowing removal of a DOC without illuminating a MIL or prompting any DTC;
 - h. allowing removal of a DOC without any engine derating;
 - i. allowing removal of a SCR system without illuminating a MIL or prompting any DTC;
 - j. allowing removal of a SCR system without any engine derating;
 - k. altering fuel timing maps within engine electronic calibrations; or
 - l. preventing DTCs or MILs from being recorded or illuminated.
8. For each product identified in response to Request 1 that is a tune or a tuner sold with tunes, provide a description of the product in Worksheet 1, including the changes the product makes or claims to make to a stock calibration (e.g., advertised horsepower improvement).
9. For each product identified in response to Request 1 that is not a tune or a tuner, identify in Worksheet 1:
 - a. all stock components each product replaces;
 - b. whether the product requires tuning or a tuner;
 - c. whether the product physically replaces or allows the removal of the DPF;
 - d. whether the product contains a DPF;
 - e. whether the product physically replaces or allows the removal of the DOC;
 - f. whether the product contains a DOC;
 - g. whether the product physically replaces or allows the removal of the SCR system;
 - h. whether the product contains a SCR system;

- i. whether the product physically replaces, removes, or blocks off the EGR system;
 - j. whether the product allows the EGR system to operate in its OEM stock configuration;
 - k. whether the product physically replaces or allows the removal of sensors connected to the ECM or OBD system; and
 - l. whether the product allows the ECM or OBD system to operate in their OEM stock configuration.
10. For each product identified in response to Request 1 that is not a tune or a tuner, describe in Worksheet 1 how each product differs from the stock components or specifically changes the stock configuration. You may provide owner's or installation manuals for a product in lieu of a narrative description. If providing the owners or installation manuals in an electronic format, identify the electronic file name associated with each manual provided.
11. For each product identified in response to Request 1, provide:
 - a. a detailed written description of all methods by which the product has been promoted or publicized by Dale's, including but not limited to, print media, commercial websites, point-of-sale webpages, event promotion or sponsorship, trade show promotion, social media promotion, or through cooperative advertising;
 - b. copies of all advertisements for the product published in print or electronic media, including commercial websites, point-of-sale webpages, or social media; and
 - c. all manuals available (e.g., owner's and installation). Electronic links are acceptable as long as the links are active and may be reported in Worksheet 1.
 12. For products identified in response to Request 1, state whether Dale's or any other entity conducted tests measuring emissions of hydrocarbons, carbon monoxide, nitrogen oxides, or particulate matter, including tests that measure the impact of the product on motor vehicle emissions or that measure the impact of the product on a vehicle's emission control devices or elements of design. For each such test, provide the following information:
 - a. a description of the test, including identification of the product and vehicle, the EPA engine family, name of the vehicle, test equipment, test protocols, and calibration procedures;
 - b. a sample test report and any training or instructional materials used for educating employees and affiliates about how to perform the test; and
 - c. the date and location of the test, the name and position of the person that conducted the test, and the test results.
 13. For products identified in response to Request 1, state whether you submitted an application for an Executive Order to the California Air Resources Board and, if so, provide a copy of the application for each product. State whether each product received an Executive Order exempting the product from California's emission control system anti-tampering law, California Vehicle Code § 27156. If the product received an Executive Order, state whether the California Air Resources Board required changes to

- the product or application to receive approval.
14. For each product identified in response to Request 1, if Dale's has indicated that a product is only for testing, maintenance, racing, off-road, or other restricted use, provide a detailed description of the mechanisms, if any, that Dale's has implemented to ensure that the component is only used for such purposes, with any and all supporting documentation.
- Worksheet 2.**
- Provide the following information in the spreadsheet titled Dales included in Enclosure 6, 2017, response to the January 3, 2017, information request, please note this in the response for the following:**
15. For each product identified in response to Request 1, that Dale's sold during the period January 1, 2017, through the date of this Information Request, provide the name, address, and phone number of the purchaser, any invoice data, and all other commercial information for each sale to a purchaser. You may provide the requested information in a spreadsheet exported from an invoice or sales management program in lieu of using Enclosure 6, Worksheet 2, however please ensure that all requested information is provided consolidated into an alternate format if such is used.
16. A written description of the current business structure of Dale's Billet Sales, LLC and its affiliated organizations, including an organizational chart depicting the parent and subsidiary companies affiliated with Dale's, entities under common ownership with Dale's, and relative ownership interests in each entity.
17. A copy of Dale's Billet Sales, LLC corporate documents, including but not limited to articles of incorporation, by-laws, certificates of good standing, and partnership or membership agreements.
18. The location of any and all warehouses or storage facilities where Dale's stores products or inventory. If Dale's drops ships products, identify the wholesalers, manufacturers, or other entities Dale's has dropshipping arrangements with, describe those arrangements, and provide any and all supporting documentation (including but not limited to contracts).
19. A list of Dale's current and former employees (including independent contractors), without date restriction, indicating each employee's dates of employment, job title(s), and job responsibilities.
20. A detailed description of Dale's relationship with Diesel Race Parts LLC (d/b/a Deviant Race Parts), with any and all supporting documentation.

21. Identify each person responsible for responding to this Information Request Enclosure 4, including his or her title, and the Request(s) to which he or she responded

ENCLOSURE 5**STATEMENT OF CERTIFICATION**

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001, 1341 and 1505.

(Signature)

(Printed Name)

(Title)

(Date)

ENCLOSURE 6
Compact Disc, Entitled Dales



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

OCT 07 2019

UNITED PARCEL SERVICE
EMAIL VERIFICATION REQUESTED

Mark Craig, Owner
Diesel Performance Parts, Inc.
411 Allied Dr
Nashville, Tennessee 37211

Dear Mr. Craig:

Pursuant to Section 208(a) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7542(a), you are hereby required to provide the U.S. Environmental Protection Agency with information relating to Diesel Performance Parts, Inc.'s (DPPI) business. The EPA is seeking this information to determine whether DPPI is in compliance with requirements of Sections 203(a) and 213(d) of the Act, 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable motor vehicle regulations at 40 C.F.R. Parts 85, 86, and 1068.

The EPA issues this Request for Information under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA, Title II, Part A – Motor Vehicle Emission and Fuel Standards, Sections 202 – 219, 42 U.S.C. §§ 7521-7554, to perform tests and provide information necessary to determine whether the person is acting or has acted in compliance with the CAA and the regulations promulgated thereunder. The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, Region 4.

Please review the following enclosures and complete as appropriate: Instructions (Enclosure 1), Definitions (Enclosure 2), Claiming Confidentiality (Enclosure 3), Request for Information (Enclosure 4), Statement of Certification (Enclosure 5), and Response Excel Template (Enclosure 6).

Please submit the requested information to the EPA per the instructions contained in Enclosure 1. Your responses are required to be submitted **no later than thirty (30) calendar days** after DPPI's receipt of this letter as determined by the date of the Email Verification, unless the EPA, for good cause shown, extends in writing the deadline for responding to the request. This information must be submitted to the following individual:

Todd Groendyke
Air Enforcement Branch
U.S. EPA, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Failure to provide the information required by this letter is a violation of the Act and may result in one or more of the following actions: (1) commencement of a civil action seeking compliance with this request pursuant to Section 204 of the Act, 42 U.S.C. § 7523; (2) issuance of an administrative penalty order pursuant to Section 205(c) of the Act, 42 U.S.C. § 7424(c); (3) commencement of a civil action in accordance with Section 205(b) of the Act, 42 U.S.C. § 7524(b); and/or (4) any other action authorized under the Act.

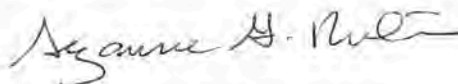
Under Section 208(c) of the Act, 42 U.S.C. § 7542(c), and pursuant to the regulations found at 40 C.F.R. Part 2, Subpart B, including 40 C.F.R. § 2.301, you are entitled to assert a claim of business confidentiality for any information you provide to the EPA which you regard as confidential business information (CBI). For such information, you may request that the EPA treat such information as confidential. Any such claim of confidentiality must conform to the requirements of 40 C.F.R. § 2.203(b). Note that "emission data," as defined by 40 C.F.R. § 2.301(a)(2), cannot be claimed as confidential under Section 208(c) of the Act, 42 U.S.C. § 7542(c). For detailed instructions for claiming confidentiality, please see Enclosure 3. Information you supply under a claim of confidentiality will be treated in accordance with 40 C.F.R. Part 2, Subpart B, and will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to DPPI. Please note that any confidentiality claim does not obviate the need to send that portion of the response to the EPA.

The response to the information requested must be accompanied by Enclosure 5, Statement of Certification, which is to be signed and dated by a responsible official of DPPI. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this request that are known to you, following a complete and thorough review of all information and sources available to you.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 – 3520, because it seeks information from specific individuals or entities as part of an investigation.

If you have any questions regarding this matter, please contact Todd Groendyke at (404) 562-8262 or by electronic mail at groendyke.todd@epa.gov.

Sincerely,



Suzanne G. Rubini
Acting Director
Enforcement and Compliance Assurance Division

Enclosures

ENCLOSURE 1

Instructions

1. Provide a complete, detailed response, in English, to each Request in Enclosure 4.
2. Provide a separate response to each and every question, and each and every subpart of a question.
3. Please provide your response to all questions of this Information Request in electronic form on a disk (CD or DVD media), flash drive, hard drive, or similar digital data storage device. All responsive documents and materials (e.g., copies of print media, audio, and visual material) must be provided as an accurate and legible copy in searchable format, number stamped in sequential order (e.g., BATES stamped).
4. Please provide your responses to Requests 1 through 7 in an unlocked, electronic spreadsheet format. For your convenience, the EPA has provided Enclosure 6 which consists of an Excel template in which you are requested to organize your responses to Requests 1 through 7. If Excel format is not available, then the format should allow for data to be imported and used in calculations by a standard spreadsheet program such as Excel. You may enter your responses directly onto the provided disk or utilize your preferred form of electronic media as described in Instruction 3 above.
5. Identify each person whom you relied on or consulted with in preparing your responses to each question of this information request. Provide their name, title, job duties and duration of employment with the company. If they are not an employee of the company, identify their employer and provide their name, title, job duties and duration of employment with their employer.
6. Where a Request allows or requires documents to be provided in response, provide all documents electronically in a file folder specific to that question or subpart and labeled accordingly.
7. When a response is provided in the form of a number, specify the units of measure.
8. Where documents or information necessary for a response is not in your possession, custody, or control, indicate in your response why such documents or information are not available or in your possession, custody, or control, and identify any source that either possesses or is likely to possess such information.
9. If you assert any objections in responding to this Information Request, each objection must state with specificity the grounds for objecting to the request, including the reasons, and must state whether any responsive materials are being withheld on the basis of that objection.
10. You must promptly supplement your response to any Request in Enclosure 4 in the event you learn that you possess responsive information not yet produced or if you gain possession, custody, or control of responsive information after responding to this Information Request.

ENCLOSURE 2

Definitions

1. The term “affiliated organization” or “affiliate” means any organization or entity associated with Diesel Performance Parts, Inc as an agent, parent organization, predecessor corporation, sister company, subsidiary organization, or any organization or entity acting in lieu of you.
2. The term “applications” means all vehicle or engine configurations.
3. The term “catalysts” means systems or devices which increase the rate of a chemical reaction but are not one of the original reactants or final products, *i.e.*, the catalyst is not consumed or altered in the reaction. The term “catalysts” includes emission control catalysts such as diesel oxidation catalysts (“DOCs”), NO_x adsorber catalysts (“NACs”), and three-way catalysts (“TWCs”).
4. The term “derate” or “derating” means an electronic control module mode that reduces the engine power or vehicle speed after the OBD system identifies a problem with the emission control equipment.
5. The term “DPF” refers to diesel particulate filters, which are exhaust aftertreatment devices that typically use a porous ceramic or cordierite substrate or metallic filter to physically trap particulate matter (“PM”) and remove it from the exhaust stream.
6. The term “element of design” means any control system (e.g., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine, as defined in 40 C.F.R. §§ 86.094-2 and 86.1803-01.
7. The term “electronic control module” or “ECM” means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. The ECM uses software programming including calculations and tables of information to provide the appropriate outputs. Multiple electronic control modules may be incorporated in a single unit to control various engine, vehicle, or equipment functions. ECM can be a generic term but may refer specifically to the engine control module when discussing emission controls on vehicles and engines. Examples of electronic control modules include, but are not limited to, the Engine Control Module, OBD Control Modules, Powertrain Control Module (“PCM”), Transmission Control Module (“TCM”), Body Control Module (“BCM”) and aftertreatment control module.
8. The term “EM product” means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information stored within or used by an ECM. EM products include, but are not limited to, programmers, modules, tuners, ECM calibration tools, replacement ECMs, flash tools, or engine management products.
9. The term “emission related parts” means those parts installed for the specific purpose of controlling

emissions, or those components, systems, or elements of design which must function properly to assure continued vehicle emission compliance, as defined in 40 C.F.R. § 85.2102.

10. The term “engine tune,” “tune,” or “calibration” means any combination of software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information, stored in any form, capable of affecting or controlling an ECM.
11. The term “entity” means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization or association.
12. The term “exhaust product” means exhaust components designed for use downstream from the exhaust port of a motor vehicle engine, and include, but are not limited to EGR block plates, EGR delete kits, EGR reroute kits, exhaust replacement pipes, race pipes, test pipes and straight pipes.
13. The term “exhaust gas recirculation” or “EGR” means systems which redirect, usually by use of an EGR valve, a portion of engine exhaust back into the engine’s combustion chamber to cool and reduce peak combustion temperatures and pressures, thereby reducing the production of nitrogen oxides (“NOx”). The EGR system may include an EGR cooler to cool the recirculated exhaust to further reduce the combustion temperature.
14. The term “information” includes any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intraoffice communications, electronic mail (“email”), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting, or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, presentations, spreadsheets, and worksheets. The term “information” includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term “information” also includes any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back-up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. Information bearing any notation not part of the original text is considered to be separate information. A draft or non-identical copy is separate information within the meaning of this term.
15. The term “manufacture” includes the creation, design, development, alteration, fabrication, production, or programming of a software code, software, hardware, program, element of design,

calibration, engine tune, EM product, engine tuner, device, part, or component.

16. The term “onboard diagnostics” or “OBD” means systems which monitor components’ emission-related systems and assists repair technicians in diagnosing and fixing problems with those emission-related systems. If a problem is detected, an OBD system should record a Diagnostic Trouble Code (“DTC”), illuminate a Malfunction Indicator Light (“MIL”) or other warning lamp on the vehicle instrument panel, and/or provide information to the ECM which induces Engine Derate due to malfunctioning or missing emission-related systems.
17. The term “person” includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
18. The term “product” includes any software code, software, hardware, program, element of design, calibration, engine tune, EM product, device, part or component.
19. The term “you,” “your,” and “DPPI” means Diesel Performance Parts, Inc. and any affiliates, predecessors, successors, assignees, agents, employees, representatives, investigators, accountants, auditors, attorneys, experts, consultants, and contractors. These terms shall also mean any others who are not listed above and are in possession, custody, or control (actual or constructive) of information relevant to this request or information that is otherwise available to Diesel Performance Parts, Inc., or who may have obtained information for or on behalf of Diesel Performance Parts, Inc.
20. The term “SCR system” refers to the selective catalytic reduction system, which is an exhaust aftertreatment device designed to reduce NOx emissions by injecting a liquid reagent through a catalyst.
21. The term “service” means any action to change, affect, modify, bypass, render inoperative, remove, download and/or install one or more part(s) or component(s) (e.g., emission control components) or other item(s), including, but not limited to, engine parts, block plates, straight pipes, power packages, computer tuning, calibrations, elements of design, tuners, tunes, software, code, or devices.

All terms not defined in this enclosure have their ordinary meaning, unless such terms are defined in the Clean Air Act and/or its implementing regulations, and in which case the statutory and/or regulatory definitions apply. Words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions. The terms “and” and “or” shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this information request any information which might otherwise be construed to be outside its scope.

ENCLOSURE 3

Confidential Business Information (CBI) Assertion and Substantiation Requirements

A. Assertion Requirements

You may assert a business confidentiality claim covering part or all of the information, other than emissions data and information or data that is otherwise publicly available, as described in 40 C.F.R. § 2.203(b). If no business confidentiality claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice. To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any information over which you make a claim of confidentiality should be marked by placing on or attaching to the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret" or "proprietary" or "business confidential" and a date if any when the information should no longer be treated as confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. Information covered by such a claim will be disclosed by the EPA only to the extent permitted and by means of the procedures set forth by Section 208(c) of the Act, and 40 C.F.R. Part 2, Subpart B.

B. Substantiation Requirements

All confidentiality claims are subject to the EPA verification and must be made in accordance with 40 C.F.R. Part 2, Subpart B. You bear the burden of substantiating your confidentiality claim and must satisfactorily show that disclosure of the information would be likely to cause substantial harm to your business' competitive position; that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; and that the information is not and has not been reasonably obtainable by legitimate means without your consent, among other things. Conclusory allegations will be given little or no weight.

Before the EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, the EPA will send you a letter asking you to substantiate fully your CBI claim by answering 11 questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. You must provide the EPA with a response within the number of days set forth in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

The EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied. Any information not specifically identified as subject to a confidentiality claim may be disclosed without further notice to you. For each item or class of information that you identify as being confidential, the

EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in the EPA's determination:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. For each item or category of information claimed as confidential, explain with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
8. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
9. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.
10. If you believe any information to be (a) trade secret (s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret (s).
11. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data).

Please note that emission data provided under Section 208 of the Act, 42 U.S.C. § 7542, is not entitled to confidential treatment under 40 C.F.R. Part 2. "Emission data" means, with reference to any source of emission of any substance into the air - (A) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing; (B) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and (C) a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).
40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

ENCLOSURE 4

Request for Information

Diesel Performance Parts, Inc shall submit the following information to the EPA, pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, regarding certain parts or components that you either manufactured (i.e., created, wrote, programmed, fabricated, produced, or modified), offered for sale, sold, or installed since September 1, 2018.

Provide the following information in Enclosure 6, worksheet 1.

1. Identify each EM product DPPI manufactured, sold, offered for sale, or installed during the period from September 1, 2018, through the date of this letter, in Enclosure 6, worksheet 1, and provide the:
 - a. Part Number, Item Code, or other unique identifier used by DPPI;
 - b. Product name;
 - c. Product manufacturer (if different);
 - d. Identify the product's applications by vehicle type, make, model, and year;
 - e. Quantity DPPI sold during the period September 1, 2018, through the date of this Information Request;
 - f. Average DPPI sale price;
 - g. Indicate if you advertised this product and provide the electronic file names of each advertisement (if applicable);
 - h. Identify whether the product affects or changes fuel delivery rate, timing of mixtures, diagnostics, turbo boost, or other engine parameters or calibrations.
 - i. Describe how the product differs from the stock components it replaces or specifically changes the stock configuration. You may provide owner's or installation manuals for a product in lieu of a narrative description if you identify the electronic names of the files.
 - j. Is the product sold with or without the following:
 - i. Tunes;
 - ii. Tunes from the EM product manufacturer;
 - iii. Tunes manufactured by you;
 - iv. Tunes manufactured by you sold without an EM product (i.e. calibration file only);
 - v. If no to i – iv, describe the product in detail.
 - k. If the product includes a tune manufactured by you provide the following:
 - i. The software used to develop the tune;
 - ii. The developer of the software; and
 - iii. A list of compatible EM products.
 - l. Does the product permanently or temporarily change, affect, or bypass a motor vehicle's emission related parts, including but not limited to the:
 - i. EGR;
 - ii. DPF
 - iii. SCR;
 - iv. catalyst;
 - v. OBD; or

- vi. any sensors, signals, or records related to these systems;
 - m. Indicate whether the product modifies, interferes, or overrides the vehicles' OBD system;
 - n. Indicate whether the product replaces or overwrites an ECM;
 - o. Indicate whether, together with the addition, modification, or removal of a motor vehicle's parts, the product has the effect to permanently or temporarily change, affect, bypass, defeat, or render inoperative a motor vehicle emission control device or emission related part; and
 - p. Quantity company installed during the period September 1, 2018, through the date of this Information Request.
2. For each product identified in response to Request 1, indicate in Enclosure 6, worksheet 1 whether:
- a. the product is capable of disabling the EGR without illuminating a MIL or prompting any on-board DTC;
 - b. DPPI has sold a version of the product that, upon installation and without post-sale modification of the product, disables or allows the end user to disable the EGR without illuminating a MIL or prompting any DTC;
 - c. the product is capable of disabling the EGR without any engine derating;
 - d. DPPI has sold a version of the product that, upon installation and without post-sale modification of the product, disables or allows the end user to disable the EGR without any engine derating;
 - e. the product is capable of allowing the removal of the EGR without illuminating a MIL or prompting any on-board DTC;
 - f. DPPI has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the EGR without illuminating a MIL or prompting any DTC;
 - g. the product is capable of allowing the removal of the EGR without any engine derating;
 - h. DPPI has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the EGR without any engine derating;
 - i. the product is capable of allowing removal of a DPF without illuminating a MIL or prompting any DTC;
 - j. DPPI has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the DPF without illuminating a MIL or prompting any DTC;
 - k. the product is capable of allowing removal of a DPF without any engine derating;
 - l. DPPI has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a DPF without any engine derating;
 - m. the product is capable of disabling or allowing removal of a SCR system without illuminating a MIL or prompting any DTC;
 - n. DPPI has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a SCR system without illuminating a MIL or prompting any DTC;
 - o. the product is capable of allowing removal of a SCR system without any engine derating;
 - p. DPPI has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a SCR system without any engine derating;

- q. the product is capable of allowing removal of a catalyst without illuminating a MIL or prompting any DTC;
 - r. DPPI has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a catalyst without illuminating a MIL or prompting any DTC;
 - s. the product is capable of allowing removal of a catalyst without any engine derating;
 - t. DPPI has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a catalyst without any engine derating;
 - u. DPPI has sold a version of the product that, upon installation and without post-sale modification of the product, alters fuel timing maps within engine electronic calibrations;
 - v. the product is capable of bypassing or altering parameters to prevent DTCs or MILs from being recorded or illuminated; and
 - w. DPPI has sold a version of the product that, upon installation and without post-sale modification of the product, prevents DTCs or MILs from being recorded or illuminated.
3. For each product identified in response to Request 1 which DPPI sold during the period September 1, 2018, through the date of this Information Request, provide all sales information using the format provided in Enclosure 6, worksheet 2. DPPI may provide the requested information in an electronic spreadsheet exported from an invoice management program such as QuickBooks in lieu of using Enclosure 6, worksheet 2.
4. Identify each exhaust product manufactured, sold, offered for sale, or installed during the period from September 1, 2018, through the date of this letter, in Enclosure 6, worksheet 3, and provide the:
- a. Part Number, Item Code, or other unique identifier used by DPPI;
 - b. Product name;
 - c. Product manufacturer (if different);
 - d. Identify the product's applications by vehicle type, make, model, and year;
 - e. Quantity DPPI sold during the period September 1, 2018, through the date of this Information Request;
 - f. Average DPPI sale price;
 - g. Indicate if you have advertised this product and provide electronic file names of each advertisement (if applicable);
 - h. Describe how the product differs from the stock components it replaces or specifically changes the stock configuration. You may provide owner's or installation manuals for a product in lieu of a narrative description if you identify the electronic names of the files.
 - i. Does the product permanently or temporarily changes, affects, or bypasses a motor vehicle's emission related parts, including but not limited to the:
 - i. EGR;
 - ii. DPF;
 - iii. SCR;
 - iv. Catalyst;
 - v. OBD; or
 - vi. any sensors, signals, or records related to these systems;
 - j. Indicate whether, together with the addition, modification, or removal of a motor vehicle's parts, the product has the effect to permanently or temporarily change, affect,

- bypass, defeat, or render inoperative a motor vehicle emission control device or emission related part; and
- k. Quantity DPPI installed during the period September 1, 2018, through the date of this Information Request.
5. For each product identified in response to Request 4 which DPPI sold during the period September 1, 2018, through the date of this Information Request, provide all sales information using the format provided in Enclosure 6, worksheet 4. DPPI may provide the requested information in an electronic spreadsheet exported from an invoice management program such as QuickBooks in lieu of using Enclosure 6, worksheet 4.

Provide the following information in Enclosure 6, worksheet 5.

6. For products identified in response to Requests 1 and 4, state whether DPPI or any other entity conducted tests measuring emissions of hydrocarbons, carbon monoxide, nitrogen oxides, or particulate matter, including tests that measure the impact of the product on motor vehicle emissions or that measure the impact of the product on a vehicle's emission control devices or elements of design. For each such test, provide the following information:
- a description of the test, including identification of the product and vehicle, the EPA engine family, name of the vehicle, test equipment, test protocols, and calibration procedures;
 - any training or instructional materials used for educating employees and affiliates about how to perform the test; and
 - the date and location of the test, the name and position of the person that conducted the test, and the test results.
7. For products that are identified in response to Requests 1 and 4:
- State whether DPPI or any other entity submitted an application for an Executive Order to the California Air Resources Board;
 - if so, provide a copy of the application for each product.
 - State whether each product received an Executive Order exempting the product from California's emission control system anti-tampering law, California Vehicle Code § 27156.
 - If the product received an Executive Order, provide the Executive Order number; and
 - If the product received an Executive Order, state whether the California Air Resources Board required changes to the product or application to receive approval.

Provide the following information.

8. For each product identified in response to Requests 1 and 4:
- provide a detailed written description of all methods by which the product has been promoted or publicized by DPPI, including but not limited to, print media, commercial websites, point-of-sale webpages, event promotion or sponsorship, trade show promotion, or social media promotion, including promotion dates and/or date ranges, if applicable;
 - provide copies of all advertisements for the product published in print or electronic media, including commercial websites, point-of-sale webpages, or social media;

- c. provide a list of other entities known to have advertised the product; and
 - d. provide all manuals available (e.g., owner's and installation).
9. Provide a detailed, written description of DPPI's business structure including ownership, corporate form, parent, sister and/or subsidiary companies, and affiliated organizations.
 10. Provide the location of all warehouses or storage facilities where DPPI stores products.

ENCLOSURE 5

STATEMENT OF CERTIFICATION

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001, 1341 and 1505.

(Signature)

(Printed Name)

(Title)

(Date)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

NOV 26 2019

UNITED PARCEL SERVICE
EMAIL VERIFICATION REQUESTED

Jacob Joyner, Owner
Diesel Power Plant
41 Hwy 212
Covington, Georgia 30014

Dear Mr. Joyner:

Pursuant to Section 208(a) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7542(a), you are hereby required to provide the U.S. Environmental Protection Agency with information relating to Diesel Power Plant's (DPP) business. The EPA is seeking this information to determine whether DPP is in compliance with requirements of Sections 203(a) and 213(d) of the Act, 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable motor vehicle regulations at 40 C.F.R. Parts 85, 86, and 1068.

The EPA issues this Request for Information under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA, Title II, Part A – Motor Vehicle Emission and Fuel Standards, Sections 202 – 219, 42 U.S.C. §§ 7521-7554, to perform tests and provide information necessary to determine whether the person is acting or has acted in compliance with the CAA and the regulations promulgated thereunder. The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, Region 4.

Please review the following enclosures and complete as appropriate: Instructions (Enclosure 1), Definitions (Enclosure 2), Claiming Confidentiality (Enclosure 3), Request for Information (Enclosure 4), and Statement of Certification (Enclosure 5).

Please submit the requested information to the EPA per the instructions contained in Enclosure 1. Your responses are required to be submitted **no later than thirty (30) calendar days** after DPP's receipt of this letter as determined by the date of the Email Verification, unless the EPA, for good cause shown, extends in writing the deadline for responding to the request. This information must be submitted to the following individual:

Todd Groendyke
Air Enforcement Branch
U.S. EPA, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Failure to provide the information required by this letter is a violation of the Act and may result in one or more of the following actions: (1) commencement of a civil action seeking compliance with this request pursuant to Section 204 of the Act, 42 U.S.C. § 7523; (2) issuance of an administrative penalty order pursuant to Section 205(c) of the Act, 42 U.S.C. § 7424(c); (3) commencement of a civil action in accordance with Section 205(b) of the Act, 42 U.S.C. § 7524(b); and/or (4) any other action authorized under the Act.

Under Section 208(c) of the Act, 42 U.S.C. § 7542(c), and pursuant to the regulations found at 40 C.F.R. Part 2, Subpart B, including 40 C.F.R. § 2.301, you are entitled to assert a claim of business confidentiality for any information you provide to the EPA which you regard as confidential business information (CBI). For such information, you may request that the EPA treat such information as confidential. Any such claim of confidentiality must conform to the requirements of 40 C.F.R. § 2.203(b). Note that "emission data," as defined by 40 C.F.R. § 2.301(a)(2), cannot be claimed as confidential under Section 208(c) of the Act, 42 U.S.C. § 7542(c). For detailed instructions for claiming confidentiality, please see Enclosure 3. Information you supply under a claim of confidentiality will be treated in accordance with 40 C.F.R. Part 2, Subpart B, and will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to DPP. Please note that any confidentiality claim does not obviate the need to send that portion of the response to the EPA.

The response to the information requested must be accompanied by Enclosure 5, Statement of Certification, which is to be signed and dated by a responsible official of DPP. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this request that are known to you, following a complete and thorough review of all information and sources available to you.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 – 3520, because it seeks information from specific individuals or entities as part of an investigation.

If you have any questions regarding this matter, please contact Todd Groendyke at (404) 562-8262 or by electronic mail at groendyke.todd@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Carol L. Kemker". The signature is fluid and cursive, with the first name "Carol" and last name "Kemker" clearly distinguishable.

Carol L. Kemker
Director
Enforcement and Compliance Assurance Division

Enclosures

ENCLOSURE 1

Instructions

1. Provide a complete, detailed response, in English, to each Request in Enclosure 4.
2. Provide a separate response to each and every question, and each and every subpart of a question.
3. Please provide your response to all questions of this Information Request in electronic form on a disk (CD or DVD media), flash drive, hard drive, or via electronic file transfer. All responsive documents and materials (e.g., copies of print media, audio, and visual material) must be provided as an accurate and legible copy in searchable format, number stamped in sequential order (e.g., BATES stamped).
4. Identify each person whom you relied on or consulted with in preparing your responses to each question of this information request. Provide their name, title, job duties and duration of employment with the company. If they are not an employee of the company, identify their employer and provide their name, title, job duties and duration of employment with their employer.
5. Where a Request allows or requires documents to be provided in response, provide all documents electronically in a file folder specific to that question or subpart and labeled accordingly.
6. When a response is provided in the form of a number, specify the units of measure.
7. Where documents or information necessary for a response is not in your possession, custody, or control, indicate in your response why such documents or information are not available or in your possession, custody, or control, and identify any source that either possesses or is likely to possess such information.
8. If you assert any objections in responding to this Information Request, each objection must state with specificity the grounds for objecting to the request, including the reasons, and must state whether any responsive materials are being withheld on the basis of that objection.
9. You must promptly supplement your response to any Request in Enclosure 4 in the event you learn that you possess responsive information not yet produced or if you gain possession, custody, or control of responsive information after responding to this Information Request.

ENCLOSURE 2

Definitions

1. The term “affiliated organization” or “affiliate” means any organization or entity associated with Diesel Power Plant as an agent, parent organization, predecessor corporation, sister company, subsidiary organization, or any organization or entity acting in lieu of you.
2. The term “element of design” means any control system (e.g., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine, as defined in 40 C.F.R. §§ 86.094-2 and 86.1803-01.
3. The term “electronic control module” or “ECM” means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. The ECM uses software programming including calculations and tables of information to provide the appropriate outputs. Multiple electronic control modules may be incorporated in a single unit to control various engine, vehicle, or equipment functions.
4. The term “engine management product” or “EM product” means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information stored within or used by an ECM. EM products include, but are not limited to, programmers, modules, tuners, ECM calibration tools, replacement ECMs, flash tools, or engine management products.
5. The term “emission related parts” means those parts installed for the specific purpose of controlling emissions, or those components, systems, or elements of design which must function properly to assure continued vehicle emission compliance, as defined in 40 C.F.R. § 85.2102.
6. The term “engine tune,” “tune,” or “calibration” means any combination of software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information, stored in any form, capable of affecting or controlling an ECM.
7. The term “entity” means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization or association.
8. The term “exhaust product” means exhaust components designed for use downstream from the exhaust port of a motor vehicle engine, and include, but are not limited to turbochargers, EGR block plates, EGR delete kits, EGR reroute kits, EGR solution kits, exhaust replacement pipes, downpipe-back exhaust systems, turbo-back exhaust systems, race pipes, test pipes and straight pipes.
9. The term “exhaust gas recirculation” or “EGR” means systems which redirect, usually by use of an EGR valve, a portion of engine exhaust back into the engine’s combustion chamber to cool and reduce peak combustion temperatures and pressures, thereby reducing the production of nitrogen oxides (“NOx”). The EGR system may include an EGR cooler to cool the recirculated exhaust to further reduce the combustion temperature.

10. The term “information” includes any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intraoffice communications, electronic mail (“email”), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting, or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, presentations, spreadsheets, and worksheets. The term “information” includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term “information” also includes any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back-up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. Information bearing any notation not part of the original text is considered to be separate information. A draft or non-identical copy is separate information within the meaning of this term.
11. The term “person” includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
12. The term “product” includes any software code, software, hardware, program, element of design, calibration, engine tune, EM product, device, part or component.
13. The term “you,” “your,” and “DPP” means Diesel Power Plant, and any affiliates, predecessors, successors, assignees, agents, employees, representatives, investigators, accountants, auditors, attorneys, experts, consultants, and contractors. These terms shall also mean any others who are not listed above and are in possession, custody, or control (actual or constructive) of information relevant to this request or information that is otherwise available to Diesel Power Plant, or who may have obtained information for or on behalf of Diesel Power Plant
14. The term “service” means any action to change, affect, modify, bypass, render inoperative, remove, download and/or install one or more part(s) or component(s) (e.g., emission control components) or other item(s), including, but not limited to, engine parts, turbochargers, block plates, straight pipes, power packages, computer tuning, calibrations, elements of design, tuners, tunes, software, code, or devices.

All terms not defined in this enclosure have their ordinary meaning, unless such terms are defined in the Clean Air Act and/or its implementing regulations, and in which case the statutory and/or regulatory definitions apply. Words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions. The terms “and” and “or” shall be

construed either conjunctively or disjunctively as necessary to bring within the scope of this information request any information which might otherwise be construed to be outside its scope.

ENCLOSURE 3

Confidential Business Information (CBI) Assertion and Substantiation Requirements

A. Assertion Requirements

You may assert a business confidentiality claim covering part or all of the information, other than emissions data and information or data that is otherwise publicly available, as described in 40 C.F.R. § 2.203(b). If no business confidentiality claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice. To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any information over which you make a claim of confidentiality should be marked by placing on or attaching to the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret” or “proprietary” or “business confidential” and a date if any when the information should no longer be treated as confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. Information covered by such a claim will be disclosed by the EPA only to the extent permitted and by means of the procedures set forth by Section 208(c) of the Act, and 40 C.F.R. Part 2, Subpart B.

B. Substantiation Requirements

All confidentiality claims are subject to the EPA verification and must be made in accordance with 40 C.F.R. Part 2, Subpart B. You bear the burden of substantiating your confidentiality claim and must satisfactorily show that disclosure of the information would be likely to cause substantial harm to your business’ competitive position; that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; and that the information is not and has not been reasonably obtainable by legitimate means without your consent, among other things. Conclusory allegations will be given little or no weight.

Before the EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, the EPA will send you a letter asking you to substantiate fully your CBI claim by answering 11 questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. You must provide the EPA with a response within the number of days set forth in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

The EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied. Any information not specifically identified as subject to a confidentiality claim may be disclosed without further notice to you. For each item or class of information that you identify as being confidential, the EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in the EPA’s determination:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. For each item or category of information claimed as confidential, explain with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
8. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
9. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.
10. If you believe any information to be (a) trade secret (s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret (s).
11. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data).

Please note that emission data provided under Section 208 of the Act, 42 U.S.C. § 7542, is not entitled to confidential treatment under 40 C.F.R. Part 2. "Emission data" means, with reference to any source of emission of any substance into the air - (A) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission

which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing; (B) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and (C) a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

ENCLOSURE 4

Request for Information

Diesel Power Plant shall submit the following information to the EPA, pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, regarding certain parts or products that you either installed, serviced or sold since November 1, 2018.

1. Provide a complete, unedited copy of each estimate, work order, invoice and bill of sale for every vehicle serviced by DPP between November 1, 2018, and the date of this request, including copies of all attachments.
2. Provide copies of invoices for all engine management (EM) products purchased and/or sold by DPP from November 1, 2018, through the date of this Information Request
3. Provide copies of invoices for all exhaust products purchased and/or sold by DPP from November 1, 2018, through the date of this Information Request.
4. Provide a detailed, written description of DPP's business structure including ownership, corporate form, officers and directors, leasing and/or warehousing agreements, parent, sister and/or subsidiary companies, and affiliated organizations.
5. Provide a detailed, written description of DPP's business relationship with Walter B. Armistead and Ben's Diesel Performance. Include a description of both formal and informal agreements, financial inter-relationships, sales and/or commission agreements, leasing and/or warehousing agreements, overlap of officers, directors and employees, and any business practices that exist between these entities.

ENCLOSURE 5

STATEMENT OF CERTIFICATION

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001, 1341 and 1505.

(Signature)

(Printed Name)

(Title)

(Date)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

MAR 17 2020

UNITED PARCEL SERVICE
EMAIL VERIFICATION REQUESTED

Direct Marketing Online, Inc.
Marvin Chanes, Owner
14005 NW 8th Street
Sunrise, Florida 33325

Dear Mr. Chanes:

Pursuant to Section 208(a) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7542(a), you are hereby required to provide the U.S. Environmental Protection Agency with information relating to Direct Marketing Online, Inc.'s (DMO) business. The EPA is seeking this information to determine whether DMO is in compliance with requirements of Sections 203(a) and 213(d) of the Act, 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable motor vehicle regulations at 40 C.F.R. Parts 85, 86, and 1068.

The EPA issues this Request for Information under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA, Title II, Part A – Motor Vehicle Emission and Fuel Standards, Sections 202 – 219, 42 U.S.C. §§ 7521-7554, to perform tests and provide information necessary to determine whether the person is acting or has acted in compliance with the CAA and the regulations promulgated thereunder. The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, Region 4.

Please review the following enclosures and complete as appropriate: Instructions (Enclosure 1), Definitions (Enclosure 2), Claiming Confidentiality (Enclosure 3), Request for Information (Enclosure 4), Statement of Certification (Enclosure 5), and Response Excel Template (Enclosure 6).

Please submit the requested information to the EPA per the instructions contained in Enclosure 1. Your responses are required to be submitted **no later than thirty (30) calendar days** after DMO's receipt of this letter as determined by the date of the Email Verification, unless the EPA, for good cause shown, extends in writing the deadline for responding to the request. This information must be submitted to the following individual:

Megan Arias
Air Enforcement Branch
U.S. EPA, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Failure to provide the information required by this letter is a violation of the Act and may result in one or more of the following actions: (1) commencement of a civil action seeking compliance with this request pursuant to Section 204 of the Act, 42 U.S.C. § 7523; (2) issuance of an administrative penalty order pursuant to Section 205(c) of the Act, 42 U.S.C. § 7424(c); (3) commencement of a civil action in accordance with Section 205(b) of the Act, 42 U.S.C. § 7524(b); and/or (4) any other action authorized under the Act.

Under Section 208(c) of the Act, 42 U.S.C. § 7542(c), and pursuant to the regulations found at 40 C.F.R. Part 2, Subpart B, including 40 C.F.R. § 2.301, you are entitled to assert a claim of business confidentiality for any information you provide to the EPA which you regard as confidential business information (CBI). For such information, you may request that the EPA treat such information as confidential. Any such claim of confidentiality must conform to the requirements of 40 C.F.R. § 2.203(b). Note that "emission data," as defined by 40 C.F.R. § 2.301(a)(2), cannot be claimed as confidential under Section 208(c) of the Act, 42 U.S.C. § 7542(c). For detailed instructions for claiming confidentiality, please see Enclosure 3. Information you supply under a claim of confidentiality will be treated in accordance with 40 C.F.R. Part 2, Subpart B, and will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to DMO. Please note that any confidentiality claim does not obviate the need to send that portion of the response to the EPA.

The response to the information requested must be accompanied by Enclosure 5, Statement of Certification, which is to be signed and dated by a responsible official of DMO. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this request that are known to you, following a complete and thorough review of all information and sources available to you.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 – 3520, because it seeks information from specific individuals or entities as part of an investigation.

If you have any questions regarding this matter, please contact Megan Arias at (404) 562-8968 or by electronic mail at arias.megan@epa.gov.

Sincerely,



Carol L. Kemker
Director
Enforcement and Compliance Assurance Division

Enclosures

ENCLOSURE 1

Instructions

1. Provide a complete, detailed response, in English, to each Request in Enclosure 4.
2. Provide a separate response to each and every question, and each and every subpart of a question.
3. Please provide your response to all questions of this Information Request in electronic form on a disk (CD or DVD media), flash drive, hard drive, or similar digital data storage device. All responsive documents and materials (e.g., copies of print media, audio, and visual material) must be provided as an accurate and legible copy in searchable format, number stamped in sequential order (e.g., BATES stamped).
4. Please provide your responses to Requests 1 through 7 in an unlocked, electronic spreadsheet format. For your convenience, the EPA has provided Enclosure 6 which consists of an Excel template in which you are requested to organize your responses to Requests 1 through 7. If Excel format is not available, then the format should allow for data to be imported and used in calculations by a standard spreadsheet program such as Excel. You may enter your responses directly onto the provided disk or utilize your preferred form of electronic media as described in Instruction 3 above.
5. Identify each person whom you relied on or consulted with in preparing your responses to each question of this information request. Provide their name, title, job duties and duration of employment with the company. If they are not an employee of the company, identify their employer and provide their name, title, job duties and duration of employment with their employer.
6. Where a Request allows or requires documents to be provided in response, provide all documents electronically in a file folder specific to that question or subpart and labeled accordingly.
7. When a response is provided in the form of a number, specify the units of measure.
8. Where documents or information necessary for a response is not in your possession, custody, or control, indicate in your response why such documents or information are not available or in your possession, custody, or control, and identify any source that either possesses or is likely to possess such information.
9. If you assert any objections in responding to this Information Request, each objection must state with specificity the grounds for objecting to the request, including the reasons, and must state whether any responsive materials are being withheld on the basis of that objection.
10. You must promptly supplement your response to any Request in Enclosure 4 in the event you learn that you possess responsive information not yet produced or if you gain possession, custody, or control of responsive information after responding to this Information Request.

ENCLOSURE 2

Definitions

1. The term “affiliated organization” or “affiliate” means any organization or entity associated with Direct Marketing Online, Inc., as an agent, parent organization, predecessor corporation, sister company, subsidiary organization, or any organization or entity acting in lieu of you.
2. The term “applications” means all vehicle or engine configurations.
3. The term “catalysts” means systems or devices which increase the rate of a chemical reaction but are not one of the original reactants or final products, *i.e.*, the catalyst is not consumed or altered in the reaction. The term “catalysts” includes emission control catalysts such as diesel oxidation catalysts (“DOCs”), NO_x adsorber catalysts (“NACs”), and three-way catalysts (“TWCs”).
4. The term “derate” or “derating” means an electronic control module mode that reduces the engine power or vehicle speed after the OBD system identifies a problem with the emission control equipment.
5. The term “DPF” refers to diesel particulate filters, which are exhaust aftertreatment devices that typically use a porous ceramic or cordierite substrate or metallic filter to physically trap particulate matter (“PM”) and remove it from the exhaust stream.
6. The term “element of design” means any control system (e.g., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine, as defined in 40 C.F.R. §§ 86.094-2 and 86.1803-01.
7. The term “electronic control module” or “ECM” means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. The ECM uses software programming including calculations and tables of information to provide the appropriate outputs. Multiple electronic control modules may be incorporated in a single unit to control various engine, vehicle, or equipment functions. ECM can be a generic term but may refer specifically to the engine control module when discussing emission controls on vehicles and engines. Examples of electronic control modules include, but are not limited to, the Engine Control Module, OBD Control Modules, Powertrain Control Module (“PCM”), Transmission Control Module (“TCM”), Body Control Module (“BCM”) and aftertreatment control module.
8. The term “engine management product” or “EM product” means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information stored within or used by an ECM. EM products include, but are not limited to, programmers, modules, tuners, ECM calibration tools, replacement ECMs, flash tools, or engine management products.
9. The term “emission related parts” means those parts installed for the specific purpose of controlling emissions, or those components, systems, or elements of design which must function properly to assure continued vehicle emission compliance, as defined in 40 C.F.R. § 85.2102.

10. The term “engine tune,” “tune,” or “calibration” means any combination of software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information, stored in any form, capable of affecting or controlling an ECM.
11. The term “entity” means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization or association.
12. The term “exhaust product” means exhaust components designed for use downstream from the exhaust port of a motor vehicle engine, and include, but are not limited to turbochargers, EGR block plates, EGR delete kits, EGR reroute kits, EGR solution kits, exhaust replacement pipes, downpipe-back exhaust systems, turbo-back exhaust systems, race pipes, test pipes and straight pipes.
13. The term “exhaust gas recirculation” or “EGR” means systems which redirect, usually by use of an EGR valve, a portion of engine exhaust back into the engine’s combustion chamber to cool and reduce peak combustion temperatures and pressures, thereby reducing the production of nitrogen oxides (“NO_x”). The EGR system may include an EGR cooler to cool the recirculated exhaust to further reduce the combustion temperature.
14. The term “information” includes any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intraoffice communications, electronic mail (“email”), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting, or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, presentations, spreadsheets, and worksheets. The term “information” includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term “information” also includes any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back-up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. Information bearing any notation not part of the original text is considered to be separate information. A draft or non-identical copy is separate information within the meaning of this term.
15. The term “manufacture” includes the creation, design, development, alteration, fabrication, production, or programming of a software code, software, hardware, program, element of design, calibration, engine tune, EM product, engine tuner, device, part, or component.

16. The term “onboard diagnostics” or “OBD” means systems which monitor components’ emission-related systems and assists repair technicians in diagnosing and fixing problems with those emission-related systems. If a problem is detected, an OBD system should record a Diagnostic Trouble Code (“DTC”), illuminate a Malfunction Indicator Light (“MIL”) or other warning lamp on the vehicle instrument panel, and/or provide information to the ECM which induces Engine Derate due to malfunctioning or missing emission-related systems.
17. The term “person” includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
18. The term “product” includes any software code, software, hardware, program, element of design, calibration, engine tune, EM product, device, part or component.
19. The term “you,” “your,” and “DMO” means Direct Marketing Online, Inc., and any affiliated organizations, including, but not limited to Performance Motorsports, LLC, ECM Performance, PMT Diesel and DPF Racing, predecessors, successors, assignees, agents, employees, representatives, investigators, accountants, auditors, attorneys, experts, consultants, and contractors. These terms shall also mean any others who are not listed above and are in possession, custody, or control (actual or constructive) of information relevant to this request or information that is otherwise available to Direct Marketing Online, Inc. or who may have obtained information for or on behalf of Direct Marketing Online, Inc.
20. The term “SCR system” refers to the selective catalytic reduction system, which is an exhaust aftertreatment device designed to reduce NOx emissions by injecting a liquid reagent through a catalyst.
21. The term “service” means any action to change, affect, modify, bypass, render inoperative, remove, download and/or install one or more part(s) or component(s) (e.g., emission control components) or other item(s), including, but not limited to, engine parts, turbochargers, block plates, straight pipes, power packages, computer tuning, calibrations, elements of design, tuners, tunes, software, code, or devices.

All terms not defined in this enclosure have their ordinary meaning, unless such terms are defined in the Clean Air Act and/or its implementing regulations, and in which case the statutory and/or regulatory definitions apply. Words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions. The terms “and” and “or” shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this information request any information which might otherwise be construed to be outside its scope.

ENCLOSURE 3

Confidential Business Information (CBI) Assertion and Substantiation Requirements

A. Assertion Requirements

You may assert a business confidentiality claim covering part or all of the information, other than emissions data and information or data that is otherwise publicly available, as described in 40 C.F.R. § 2.203(b). If no business confidentiality claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice. To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any information over which you make a claim of confidentiality should be marked by placing on or attaching to the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret" or "proprietary" or "business confidential" and a date if any when the information should no longer be treated as confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. Information covered by such a claim will be disclosed by the EPA only to the extent permitted and by means of the procedures set forth by Section 208(c) of the Act, and 40 C.F.R. Part 2, Subpart B.

B. Substantiation Requirements

All confidentiality claims are subject to the EPA verification and must be made in accordance with 40 C.F.R. Part 2, Subpart B. You bear the burden of substantiating your confidentiality claim and must satisfactorily show that disclosure of the information would be likely to cause substantial harm to your business' competitive position; that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; and that the information is not and has not been reasonably obtainable by legitimate means without your consent, among other things. Conclusory allegations will be given little or no weight.

Before the EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, the EPA will send you a letter asking you to substantiate fully your CBI claim by answering 11 questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. You must provide the EPA with a response within the number of days set forth in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

The EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied. Any information not specifically identified as subject to a confidentiality claim may be disclosed without further notice to you. For each item or class of information that you identify as being confidential, the EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in the EPA's determination:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. For each item or category of information claimed as confidential, explain with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
8. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
9. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.
10. If you believe any information to be (a) trade secret (s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret (s).
11. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data).

Please note that emission data provided under Section 208 of the Act, 42 U.S.C. § 7542, is not entitled to confidential treatment under 40 C.F.R. Part 2. "Emission data" means, with reference to any source of emission of any substance into the air - (A) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission

which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing; (B) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and (C) a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

ENCLOSURE 4

Request for Information

DMO shall submit the following information to the EPA, pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, regarding certain parts or components that you either manufactured (i.e., created, wrote, programmed, fabricated, produced, or modified), offered for sale, sold, or installed since March 1, 2019.

Provide the following information in Enclosure 6, worksheet 1.

1. Identify each EM product DMO manufactured, sold, offered for sale, or installed during the period from March 1, 2019, through the date of this letter, in Enclosure 6, worksheet 1, and provide the:
 - a. Part Number, Item Code, or other unique identifier used by DMO;
 - b. Product name;
 - c. Product manufacturer (if different);
 - d. Identify the product's applications by vehicle type, make, model, and year;
 - e. Quantity DMO sold during the period March 1, 2019, through the date of this Information Request;
 - f. Average DMO sale price;
 - g. Indicate if you advertised this product and provide the electronic file names of each advertisement (if applicable);
 - h. Identify whether the product affects or changes fuel delivery rate, timing of mixtures, diagnostics, turbo boost, or other engine parameters or calibrations;
 - i. Describe how the product differs from the stock components it replaces or specifically changes the stock configuration. You may provide owner's or installation manuals for a product in lieu of a narrative description if you identify the electronic names of the files.
 - j. Is the product sold with or without the following:
 - i. Tunes;
 - ii. Tunes from the EM product manufacturer;
 - iii. Tunes manufactured by you;
 - iv. Tunes manufactured by you sold without an EM product (i.e. calibration file only); or
 - v. If no to i – iv, describe the product in detail.
 - k. If the product includes a tune manufactured by you provide the following:
 - i. The software used to develop the tune;
 - ii. The developer of the software; and
 - iii. A list of compatible EM products.
 - l. Does the product permanently or temporarily change, affect, or bypass a motor vehicle's emission related parts, including but not limited to the:
 - i. EGR;
 - ii. DPF;
 - iii. SCR;
 - iv. catalyst;
 - v. OBD; or
 - vi. any sensors, signals, or records related to these systems;
 - m. Indicate whether the product modifies, interferes, or overrides the vehicles' OBD system;

- n. Indicate whether the product replaces or overwrites an ECM;
 - o. Indicate whether, together with the addition, modification, or removal of a motor vehicle's parts, the product has the effect to permanently or temporarily change, affect, bypass, defeat, or render inoperative a motor vehicle emission control device or emission related part; and
 - p. Quantity company installed during the period March 1, 2019, through the date of this Information Request.
2. For each product identified in response to Request 1, indicate in Enclosure 6, worksheet 1 whether:
- a. the product is capable of disabling the EGR without illuminating a MIL or prompting any on-board DTC;
 - b. DMO has sold a version of the product that, upon installation and without post-sale modification of the product, disables or allows the end user to disable the EGR without illuminating a MIL or prompting any DTC;
 - c. the product is capable of disabling the EGR without any engine derating;
 - d. DMO has sold a version of the product that, upon installation and without post-sale modification of the product, disables or allows the end user to disable the EGR without any engine derating;
 - e. the product is capable of allowing the removal of the EGR without illuminating a MIL or prompting any on-board DTC;
 - f. DMO has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the EGR without illuminating a MIL or prompting any DTC;
 - g. the product is capable of allowing the removal of the EGR without any engine derating;
 - h. DMO has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the EGR without any engine derating;
 - i. the product is capable of allowing removal of a DPF without illuminating a MIL or prompting any DTC;
 - j. DMO has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the DPF without illuminating a MIL or prompting any DTC;
 - k. the product is capable of allowing removal of a DPF without any engine derating;
 - l. DMO has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a DPF without any engine derating;
 - m. the product is capable of disabling or allowing removal of a SCR system without illuminating a MIL or prompting any DTC;
 - n. DMO has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a SCR system without illuminating a MIL or prompting any DTC;
 - o. the product is capable of allowing removal of a SCR system without any engine derating;
 - p. DMO has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a SCR system without any engine derating;
 - q. the product is capable of allowing removal of a catalyst without illuminating a MIL or prompting any DTC;
 - r. DMO has sold a version of the product that, upon installation and without post-sale

- modification of the product, allows removal of a catalyst without illuminating a MIL or prompting any DTC;
 - s. the product is capable of allowing removal of a catalyst without any engine derating;
 - t. DMO has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a catalyst without any engine derating;
 - u. DMO has sold a version of the product that, upon installation and without post-sale modification of the product, alters fuel timing maps within engine electronic calibrations;
 - v. the product is capable of bypassing or altering parameters to prevent DTCs or MILs from being recorded or illuminated; and
 - w. DMO has sold a version of the product that, upon installation and without post-sale modification of the product, prevents DTCs or MILs from being recorded or illuminated.
3. For each product identified in response to Request 1 which DMO sold during the period March 1, 2019, through the date of this Information Request, provide all sales information using the format provided in Enclosure 6, worksheet 2. DMO may provide the requested information in an electronic spreadsheet exported from an invoice management program such as QuickBooks in lieu of using Enclosure 6, worksheet 2.
 4. Identify each exhaust product manufactured, sold, offered for sale, or installed during the period from March 1, 2019, through the date of this letter, in Enclosure 6, worksheet 3, and provide the:
 - a. Part Number, Item Code, or other unique identifier used by DMO;
 - b. Product name;
 - c. Product manufacturer (if different);
 - d. Identify the product's applications by vehicle type, make, model, and year;
 - e. Quantity DMO sold during the period March 1, 2019, through the date of this Information Request;
 - f. Average DMO sale price;
 - g. Indicate if you have advertised this product and provide electronic file names of each advertisement (if applicable);
 - h. Describe how the product differs from the stock components it replaces or specifically changes the stock configuration. You may provide owner's or installation manuals for a product in lieu of a narrative description if you identify the electronic names of the files.
 - i. Does the product permanently or temporarily changes, affects, or bypasses a motor vehicle's emission related parts, including but not limited to the:
 - i. EGR;
 - ii. DPF;
 - iii. SCR;
 - iv. Catalyst;
 - v. OBD; or
 - vi. any sensors, signals, or records related to these systems;
 - j. Indicate whether, together with the addition, modification, or removal of a motor vehicle's parts, the product has the effect to permanently or temporarily change, affect, bypass, defeat, or render inoperative a motor vehicle emission control device or emission related part; and
 - k. Quantity DMO installed during the period March 1, 2019, through the date of this Information Request.

5. For each product identified in response to Request 4 which DMO sold during the period March 1, 2019, through the date of this Information Request, provide all sales information using the format provided in Enclosure 6, worksheet 4. DMO may provide the requested information in an electronic spreadsheet exported from an invoice management program such as QuickBooks in lieu of using Enclosure 6, worksheet 4.

Provide the following information in Enclosure 6, worksheet 5.

6. For products identified in response to Requests 1 and 4, state whether DMO or any other entity conducted tests measuring emissions of hydrocarbons, carbon monoxide, nitrogen oxides, or particulate matter, including tests that measure the impact of the product on motor vehicle emissions or that measure the impact of the product on a vehicle's emission control devices or elements of design. For each such test, provide the following information:
 - a. a description of the test, including identification of the product and vehicle, the EPA engine family, name of the vehicle, test equipment, test protocols, and calibration procedures;
 - b. any training or instructional materials used for educating employees and affiliates about how to perform the test; and
 - c. the date and location of the test, the name and position of the person that conducted the test, and the test results.
7. For products that are identified in response to Requests 1 and 4:
 - a. State whether DMO or any other entity submitted an application for an Executive Order to the California Air Resources Board;
 - i. if so, provide a copy of the application for each product.
 - b. State whether each product received an Executive Order exempting the product from California's emission control system anti-tampering law, California Vehicle Code § 27156; ccc
 - c. If the product received an Executive Order, provide the Executive Order number; and
 - d. If the product received an Executive Order, state whether the California Air Resources Board required changes to the product or application to receive approval.

Provide the following information.

8. For each product identified in response to Requests 1 and 4:
 - a. provide a detailed written description of all methods by which the product has been promoted or publicized by DMO, including but not limited to, print media, commercial websites, point-of-sale webpages, event promotion or sponsorship, trade show promotion, or social media promotion, including promotion dates and/or date ranges, if applicable;
 - b. provide copies of all advertisements for the product published in print or electronic media, including commercial websites, point-of-sale webpages, or social media;
 - c. provide a list of other entities known to have advertised the product; and
 - d. provide all manuals available (e.g., owner's and installation).
9. Provide a detailed, written description of DMO's business structure including ownership, corporate form, parent, sister and/or subsidiary companies, and affiliated organizations.

10. Provide the location of all warehouses or storage facilities where DMO stores products.
11. Provide the name, address, telephone number, uniform resource locator (URL) and email address for any manufacturer, wholesaler, dealer, or retailer from whom DMO has purchased engine management products, exhaust products, and/or tunes between March 1, 2019, and the date of this request.
12. Provide the name and URL of all internet websites, stores (including Amazon and eBay stores) and/or platforms where DMO has sold or offered to sell engine management products, exhaust products, and/or tunes between March 1, 2019, and the date of this request.

ENCLOSURE 5

STATEMENT OF CERTIFICATION

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001, 1341 and 1505.

(Signature)

(Printed Name)

(Title)

(Date)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

OCT 07 2019

UNITED PARCEL SERVICE
EMAIL VERIFICATION REQUESTED

David DeBuc, Owner
DK Engine Parts, LLC
172 N 85 Pkwy
Fayetteville, Georgia 30214

Dear Mr. DeBuc:

Pursuant to Section 208(a) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7542(a), you are hereby required to provide the U.S. Environmental Protection Agency with information relating to DK Engine Parts, LLC's (DKEP) business. The EPA is seeking this information to determine whether DKEP is in compliance with requirements of Sections 203(a) and 213(d) of the Act, 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable motor vehicle regulations at 40 C.F.R. Parts 85, 86, and 1068.

The EPA issues this Request for Information under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA, Title II, Part A – Motor Vehicle Emission and Fuel Standards, Sections 202 – 219, 42 U.S.C. §§ 7521-7554, to perform tests and provide information necessary to determine whether the person is acting or has acted in compliance with the CAA and the regulations promulgated thereunder. The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, Region 4.

Please review the following enclosures and complete as appropriate: Instructions (Enclosure 1), Definitions (Enclosure 2), Claiming Confidentiality (Enclosure 3), Request for Information (Enclosure 4), Statement of Certification (Enclosure 5), and Response Excel Template (Enclosure 6).

Please submit the requested information to the EPA per the instructions contained in Enclosure 1. Your responses are required to be submitted **no later than thirty (30) calendar days** after DKEP's receipt of this letter as determined by the date of the Email Verification, unless the EPA, for good cause shown, extends in writing the deadline for responding to the request. This information must be submitted to the following individual:

Todd Groendyke
Air Enforcement Branch
U.S. EPA, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Failure to provide the information required by this letter is a violation of the Act and may result in one or more of the following actions: (1) commencement of a civil action seeking compliance with this request pursuant to Section 204 of the Act, 42 U.S.C. § 7523; (2) issuance of an administrative penalty order pursuant to Section 205(c) of the Act, 42 U.S.C. § 7424(c); (3) commencement of a civil action in accordance with Section 205(b) of the Act, 42 U.S.C. § 7524(b); and/or (4) any other action authorized under the Act.

Under Section 208(c) of the Act, 42 U.S.C. § 7542(c), and pursuant to the regulations found at 40 C.F.R. Part 2, Subpart B, including 40 C.F.R. § 2.301, you are entitled to assert a claim of business confidentiality for any information you provide to the EPA which you regard as confidential business information (CBI). For such information, you may request that the EPA treat such information as confidential. Any such claim of confidentiality must conform to the requirements of 40 C.F.R. § 2.203(b). Note that "emission data," as defined by 40 C.F.R. § 2.301(a)(2), cannot be claimed as confidential under Section 208(c) of the Act, 42 U.S.C. § 7542(c). For detailed instructions for claiming confidentiality, please see Enclosure 3. Information you supply under a claim of confidentiality will be treated in accordance with 40 C.F.R. Part 2, Subpart B, and will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to DKEP. Please note that any confidentiality claim does not obviate the need to send that portion of the response to the EPA.

The response to the information requested must be accompanied by Enclosure 5, Statement of Certification, which is to be signed and dated by a responsible official of DKEP. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this request that are known to you, following a complete and thorough review of all information and sources available to you.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 – 3520, because it seeks information from specific individuals or entities as part of an investigation.

If you have any questions regarding this matter, please contact Todd Groendyke at (404) 562-8262 or by electronic mail at groendyke.todd@epa.gov.

Sincerely,



Suzanne G. Rubini
Acting Director
Enforcement and Compliance Assurance Division

Enclosures

ENCLOSURE 1

Instructions

1. Provide a complete, detailed response, in English, to each Request in Enclosure 4.
2. Provide a separate response to each and every question, and each and every subpart of a question.
3. Please provide your response to all questions of this Information Request in electronic form on a disk (CD or DVD media), flash drive, hard drive, or similar digital data storage device. All responsive documents and materials (e.g., copies of print media, audio, and visual material) must be provided as an accurate and legible copy in searchable format, number stamped in sequential order (e.g., BATES stamped).
4. Please provide your responses to Requests 1 through 7 in an unlocked, electronic spreadsheet format. For your convenience, the EPA has provided Enclosure 6 which consists of an Excel template in which you are requested to organize your responses to Requests 1 through 7. If Excel format is not available, then the format should allow for data to be imported and used in calculations by a standard spreadsheet program such as Excel. You may enter your responses directly onto the provided disk or utilize your preferred form of electronic media as described in Instruction 3 above.
5. Identify each person whom you relied on or consulted with in preparing your responses to each question of this information request. Provide their name, title, job duties and duration of employment with the company. If they are not an employee of the company, identify their employer and provide their name, title, job duties and duration of employment with their employer.
6. Where a Request allows or requires documents to be provided in response, provide all documents electronically in a file folder specific to that question or subpart and labeled accordingly.
7. When a response is provided in the form of a number, specify the units of measure.
8. Where documents or information necessary for a response is not in your possession, custody, or control, indicate in your response why such documents or information are not available or in your possession, custody, or control, and identify any source that either possesses or is likely to possess such information.
9. If you assert any objections in responding to this Information Request, each objection must state with specificity the grounds for objecting to the request, including the reasons, and must state whether any responsive materials are being withheld on the basis of that objection.
10. You must promptly supplement your response to any Request in Enclosure 4 in the event you learn that you possess responsive information not yet produced or if you gain possession, custody, or control of responsive information after responding to this Information Request.

ENCLOSURE 2

Definitions

1. The term “affiliated organization” or “affiliate” means any organization or entity associated with DK Engine Parts, LLC as an agent, parent organization, predecessor corporation, sister company, subsidiary organization, or any organization or entity acting in lieu of you.
2. The term “applications” means all vehicle or engine configurations.
3. The term “catalysts” means systems or devices which increase the rate of a chemical reaction but are not one of the original reactants or final products, *i.e.*, the catalyst is not consumed or altered in the reaction. The term “catalysts” includes emission control catalysts such as diesel oxidation catalysts (“DOCs”), NO_x adsorber catalysts (“NACs”), and three-way catalysts (“TWCs”).
4. The term “derate” or “derating” means an electronic control module mode that reduces the engine power or vehicle speed after the OBD system identifies a problem with the emission control equipment.
5. The term “DPF” refers to diesel particulate filters, which are exhaust aftertreatment devices that typically use a porous ceramic or cordierite substrate or metallic filter to physically trap particulate matter (“PM”) and remove it from the exhaust stream.
6. The term “element of design” means any control system (e.g., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine, as defined in 40 C.F.R. §§ 86.094-2 and 86.1803-01.
7. The term “electronic control module” or “ECM” means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. The ECM uses software programming including calculations and tables of information to provide the appropriate outputs. Multiple electronic control modules may be incorporated in a single unit to control various engine, vehicle, or equipment functions. ECM can be a generic term but may refer specifically to the engine control module when discussing emission controls on vehicles and engines. Examples of electronic control modules include, but are not limited to, the Engine Control Module, OBD Control Modules, Powertrain Control Module (“PCM”), Transmission Control Module (“TCM”), Body Control Module (“BCM”) and aftertreatment control module.
8. The term “EM product” means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information stored within or used by an ECM. EM products include, but are not limited to, programmers, modules, tuners, ECM calibration tools, replacement ECMs, flash tools, or engine management products.
9. The term “emission related parts” means those parts installed for the specific purpose of controlling emissions, or those components, systems, or elements of design which must function properly to

assure continued vehicle emission compliance, as defined in 40 C.F.R. § 85.2102.

10. The term “engine tune,” “tune,” or “calibration” means any combination of software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information, stored in any form, capable of affecting or controlling an ECM.
11. The term “entity” means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization or association.
12. The term “exhaust product” means exhaust components designed for use downstream from the exhaust port of a motor vehicle engine, and include, but are not limited to EGR block plates, EGR delete kits, EGR reroute kits, exhaust replacement pipes, race pipes, test pipes and straight pipes.
13. The term “exhaust gas recirculation” or “EGR” means systems which redirect, usually by use of an EGR valve, a portion of engine exhaust back into the engine’s combustion chamber to cool and reduce peak combustion temperatures and pressures, thereby reducing the production of nitrogen oxides (“NOx”). The EGR system may include an EGR cooler to cool the recirculated exhaust to further reduce the combustion temperature.
14. The term “information” includes any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intraoffice communications, electronic mail (“email”), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting, or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, presentations, spreadsheets, and worksheets. The term “information” includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term “information” also includes any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back-up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. Information bearing any notation not part of the original text is considered to be separate information. A draft or non-identical copy is separate information within the meaning of this term.
15. The term “manufacture” includes the creation, design, development, alteration, fabrication, production, or programming of a software code, software, hardware, program, element of design, calibration, engine tune, EM product, engine tuner, device, part, or component.

16. The term “onboard diagnostics” or “OBD” means systems which monitor components’ emission-related systems and assists repair technicians in diagnosing and fixing problems with those emission-related systems. If a problem is detected, an OBD system should record a Diagnostic Trouble Code (“DTC”), illuminate a Malfunction Indicator Light (“MIL”) or other warning lamp on the vehicle instrument panel, and/or provide information to the ECM which induces Engine Derate due to malfunctioning or missing emission-related systems.
17. The term “person” includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
18. The term “product” includes any software code, software, hardware, program, element of design, calibration, engine tune, EM product, device, part or component.
19. The term “you,” “your,” and “DKEP” means DK Engine Parts, LLC and any affiliates, predecessors, successors, assignees, agents, employees, representatives, investigators, accountants, auditors, attorneys, experts, consultants, and contractors. These terms shall also mean any others who are not listed above and are in possession, custody, or control (actual or constructive) of information relevant to this request or information that is otherwise available to DK Engine Parts, LLC, or who may have obtained information for or on behalf of DK Engine Parts, LLC.
20. The term “SCR system” refers to the selective catalytic reduction system, which is an exhaust aftertreatment device designed to reduce NOx emissions by injecting a liquid reagent through a catalyst.
21. The term “service” means any action to change, affect, modify, bypass, render inoperative, remove, download and/or install one or more part(s) or component(s) (e.g., emission control components) or other item(s), including, but not limited to, engine parts, block plates, straight pipes, power packages, computer tuning, calibrations, elements of design, tuners, tunes, software, code, or devices.

All terms not defined in this enclosure have their ordinary meaning, unless such terms are defined in the Clean Air Act and/or its implementing regulations, and in which case the statutory and/or regulatory definitions apply. Words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions. The terms “and” and “or” shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this information request any information which might otherwise be construed to be outside its scope.

ENCLOSURE 3

Confidential Business Information (CBI) Assertion and Substantiation Requirements

A. Assertion Requirements

You may assert a business confidentiality claim covering part or all of the information, other than emissions data and information or data that is otherwise publicly available, as described in 40 C.F.R. § 2.203(b). If no business confidentiality claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice. To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any information over which you make a claim of confidentiality should be marked by placing on or attaching to the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret" or "proprietary" or "business confidential" and a date if any when the information should no longer be treated as confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. Information covered by such a claim will be disclosed by the EPA only to the extent permitted and by means of the procedures set forth by Section 208(c) of the Act, and 40 C.F.R. Part 2, Subpart B.

B. Substantiation Requirements

All confidentiality claims are subject to the EPA verification and must be made in accordance with 40 C.F.R. Part 2, Subpart B. You bear the burden of substantiating your confidentiality claim and must satisfactorily show that disclosure of the information would be likely to cause substantial harm to your business' competitive position; that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; and that the information is not and has not been reasonably obtainable by legitimate means without your consent, among other things. Conclusory allegations will be given little or no weight.

Before the EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, the EPA will send you a letter asking you to substantiate fully your CBI claim by answering 11 questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. You must provide the EPA with a response within the number of days set forth in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

The EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied. Any information not specifically identified as subject to a confidentiality claim may be disclosed without further notice to you. For each item or class of information that you identify as being confidential, the

EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in the EPA's determination:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. For each item or category of information claimed as confidential, explain with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
8. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
9. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.
10. If you believe any information to be (a) trade secret (s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret (s).
11. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data).

Please note that emission data provided under Section 208 of the Act, 42 U.S.C. § 7542, is not entitled to confidential treatment under 40 C.F.R. Part 2. "Emission data" means, with reference to any source of emission of any substance into the air - (A) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing; (B) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and (C) a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).
40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

ENCLOSURE 4

Request for Information

DK Engine Parts, LLC shall submit the following information to the EPA, pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, regarding certain parts or components that you either manufactured (i.e., created, wrote, programmed, fabricated, produced, or modified), offered for sale, sold, or installed since September 1, 2018.

Provide the following information in Enclosure 6, worksheet 1.

1. Identify each EM product DKEP manufactured, sold, offered for sale, or installed during the period from September 1, 2018, through the date of this letter, in Enclosure 6, worksheet 1, and provide the:
 - a. Part Number, Item Code, or other unique identifier used by DKEP;
 - b. Product name;
 - c. Product manufacturer (if different);
 - d. Identify the product's applications by vehicle type, make, model, and year;
 - e. Quantity DKEP sold during the period September 1, 2018, through the date of this Information Request;
 - f. Average DKEP sale price;
 - g. Indicate if you advertised this product and provide the electronic file names of each advertisement (if applicable);
 - h. Identify whether the product affects or changes fuel delivery rate, timing of mixtures, diagnostics, turbo boost, or other engine parameters or calibrations.
 - i. Describe how the product differs from the stock components it replaces or specifically changes the stock configuration. You may provide owner's or installation manuals for a product in lieu of a narrative description if you identify the electronic names of the files.
 - j. Is the product sold with or without the following:
 - i. Tunes;
 - ii. Tunes from the EM product manufacturer;
 - iii. Tunes manufactured by you;
 - iv. Tunes manufactured by you sold without an EM product (i.e. calibration file only);
 - v. If no to i – iv, describe the product in detail.
 - k. If the product includes a tune manufactured by you provide the following:
 - i. The software used to develop the tune;
 - ii. The developer of the software; and
 - iii. A list of compatible EM products.
 - l. Does the product permanently or temporarily change, affect, or bypass a motor vehicle's emission related parts, including but not limited to the:
 - i. EGR;
 - ii. DPF
 - iii. SCR;
 - iv. catalyst;
 - v. OBD; or

- vi. any sensors, signals, or records related to these systems;
 - m. Indicate whether the product modifies, interferes, or overrides the vehicles' OBD system;
 - n. Indicate whether the product replaces or overwrites an ECM;
 - o. Indicate whether, together with the addition, modification, or removal of a motor vehicle's parts, the product has the effect to permanently or temporarily change, affect, bypass, defeat, or render inoperative a motor vehicle emission control device or emission related part; and
 - p. Quantity company installed during the period September 1, 2018, through the date of this Information Request.
2. For each product identified in response to Request 1, indicate in Enclosure 6, worksheet 1 whether:
- a. the product is capable of disabling the EGR without illuminating a MIL or prompting any on-board DTC;
 - b. DKEP has sold a version of the product that, upon installation and without post-sale modification of the product, disables or allows the end user to disable the EGR without illuminating a MIL or prompting any DTC;
 - c. the product is capable of disabling the EGR without any engine derating;
 - d. DKEP has sold a version of the product that, upon installation and without post-sale modification of the product, disables or allows the end user to disable the EGR without any engine derating;
 - e. the product is capable of allowing the removal of the EGR without illuminating a MIL or prompting any on-board DTC;
 - f. DKEP has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the EGR without illuminating a MIL or prompting any DTC;
 - g. the product is capable of allowing the removal of the EGR without any engine derating;
 - h. DKEP has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the EGR without any engine derating;
 - i. the product is capable of allowing removal of a DPF without illuminating a MIL or prompting any DTC;
 - j. DKEP has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the DPF without illuminating a MIL or prompting any DTC;
 - k. the product is capable of allowing removal of a DPF without any engine derating;
 - l. DKEP has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a DPF without any engine derating;
 - m. the product is capable of disabling or allowing removal of a SCR system without illuminating a MIL or prompting any DTC;
 - n. DKEP has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a SCR system without illuminating a MIL or prompting any DTC;
 - o. the product is capable of allowing removal of a SCR system without any engine derating;
 - p. DKEP has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a SCR system without any engine derating;

- q. the product is capable of allowing removal of a catalyst without illuminating a MIL or prompting any DTC;
 - r. DKEP has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a catalyst without illuminating a MIL or prompting any DTC;
 - s. the product is capable of allowing removal of a catalyst without any engine derating;
 - t. DKEP has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a catalyst without any engine derating;
 - u. DKEP has sold a version of the product that, upon installation and without post-sale modification of the product, alters fuel timing maps within engine electronic calibrations;
 - v. the product is capable of bypassing or altering parameters to prevent DTCs or MILs from being recorded or illuminated; and
 - w. DKEP has sold a version of the product that, upon installation and without post-sale modification of the product, prevents DTCs or MILs from being recorded or illuminated.
3. For each product identified in response to Request 1 which DKEP sold during the period September 1, 2018, through the date of this Information Request, provide all sales information using the format provided in Enclosure 6, worksheet 2. DKEP may provide the requested information in an electronic spreadsheet exported from an invoice management program such as QuickBooks in lieu of using Enclosure 6, worksheet 2.
4. Identify each exhaust product manufactured, sold, offered for sale, or installed during the period from September 1, 2018, through the date of this letter, in Enclosure 6, worksheet 3, and provide the:
- a. Part Number, Item Code, or other unique identifier used by DKEP;
 - b. Product name;
 - c. Product manufacturer (if different);
 - d. Identify the product's applications by vehicle type, make, model, and year;
 - e. Quantity DKEP sold during the period September 1, 2018, through the date of this Information Request;
 - f. Average DKEP sale price;
 - g. Indicate if you have advertised this product and provide electronic file names of each advertisement (if applicable);
 - h. Describe how the product differs from the stock components it replaces or specifically changes the stock configuration. You may provide owner's or installation manuals for a product in lieu of a narrative description if you identify the electronic names of the files.
 - i. Does the product permanently or temporarily changes, affects, or bypasses a motor vehicle's emission related parts, including but not limited to the:
 - i. EGR;
 - ii. DPF;
 - iii. SCR;
 - iv. Catalyst;
 - v. OBD; or
 - vi. any sensors, signals, or records related to these systems;
 - j. Indicate whether, together with the addition, modification, or removal of a motor vehicle's parts, the product has the effect to permanently or temporarily change, affect,

- bypass, defeat, or render inoperative a motor vehicle emission control device or emission related part; and
- k. Quantity DKEP installed during the period September 1, 2018, through the date of this Information Request.
5. For each product identified in response to Request 4 which DKEP sold during the period September 1, 2018, through the date of this Information Request, provide all sales information using the format provided in Enclosure 6, worksheet 4. DKEP may provide the requested information in an electronic spreadsheet exported from an invoice management program such as QuickBooks in lieu of using Enclosure 6, worksheet 4.

Provide the following information in Enclosure 6, worksheet 5.

6. For products identified in response to Requests 1 and 4, state whether DKEP or any other entity conducted tests measuring emissions of hydrocarbons, carbon monoxide, nitrogen oxides, or particulate matter, including tests that measure the impact of the product on motor vehicle emissions or that measure the impact of the product on a vehicle's emission control devices or elements of design. For each such test, provide the following information:
 - a. a description of the test, including identification of the product and vehicle, the EPA engine family, name of the vehicle, test equipment, test protocols, and calibration procedures;
 - b. any training or instructional materials used for educating employees and affiliates about how to perform the test; and
 - c. the date and location of the test, the name and position of the person that conducted the test, and the test results.
7. For products that are identified in response to Requests 1 and 4:
 - a. State whether DKEP or any other entity submitted an application for an Executive Order to the California Air Resources Board;
 - i. if so, provide a copy of the application for each product.
 - b. State whether each product received an Executive Order exempting the product from California's emission control system anti-tampering law, California Vehicle Code § 27156.
 - c. If the product received an Executive Order, provide the Executive Order number; and
 - d. If the product received an Executive Order, state whether the California Air Resources Board required changes to the product or application to receive approval.

Provide the following information.

8. For each product identified in response to Requests 1 and 4:
 - a. provide a detailed written description of all methods by which the product has been promoted or publicized by DKEP, including but not limited to, print media, commercial websites, point-of-sale webpages, event promotion or sponsorship, trade show promotion, or social media promotion, including promotion dates and/or date ranges, if applicable;
 - b. provide copies of all advertisements for the product published in print or electronic media, including commercial websites, point-of-sale webpages, or social media;

- c. provide a list of other entities known to have advertised the product; and
 - d. provide all manuals available (e.g., owner's and installation).
9. Provide a detailed, written description of DKEP's business structure including ownership, corporate form, parent, sister and/or subsidiary companies, and affiliated organizations.
 10. Provide the location of all warehouses or storage facilities where DKEP stores products.

ENCLOSURE 5

STATEMENT OF CERTIFICATION

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001, 1341 and 1505.

(Signature)

(Printed Name)

(Title)

(Date)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

NOV 26 2019

UNITED PARCEL SERVICE
EMAIL VERIFICATION REQUESTED

Down Home Diesel Tuning and Performance, LLC
Daniel Weekley, Owner
164A Old Carters Creek Pike
Franklin, Tennessee 37064

Dear Mr. Weekley:

Pursuant to Section 208(a) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7542(a), you are hereby required to provide the U.S. Environmental Protection Agency with information relating to Down Home Diesel Tuning and Performance LLC's (DHDTAP) business. The EPA is seeking this information to determine whether DHDTAP is in compliance with requirements of Sections 203(a) and 213(d) of the Act, 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable motor vehicle regulations at 40 C.F.R. Parts 85, 86, and 1068.

The EPA issues this Request for Information under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA, Title II, Part A – Motor Vehicle Emission and Fuel Standards, Sections 202 – 219, 42 U.S.C. §§ 7521-7554, to perform tests and provide information necessary to determine whether the person is acting or has acted in compliance with the CAA and the regulations promulgated thereunder. The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, Region 4.

Please review the following enclosures and complete as appropriate: Instructions (Enclosure 1), Definitions (Enclosure 2), Claiming Confidentiality (Enclosure 3), Request for Information (Enclosure 4), Statement of Certification (Enclosure 5), and Response Excel Template (Enclosure 6).

Please submit the requested information to the EPA per the instructions contained in Enclosure 1. Your responses are required to be submitted **no later than thirty (30) calendar days** after DHDTAP's receipt of this letter as determined by the date of the Email Verification, unless the EPA, for good cause shown, extends in writing the deadline for responding to the request. This information must be submitted to the following individual:

Sharron Porter
Air Enforcement Branch
U.S. EPA, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Failure to provide the information required by this letter is a violation of the Act and may result in one or more of the following actions: (1) commencement of a civil action seeking compliance with this request pursuant to Section 204 of the Act, 42 U.S.C. § 7523; (2) issuance of an administrative penalty order pursuant to Section 205(c) of the Act, 42 U.S.C. § 7424(c); (3) commencement of a civil action in accordance with Section 205(b) of the Act, 42 U.S.C. § 7524(b); and/or (4) any other action authorized under the Act.

Under Section 208(c) of the Act, 42 U.S.C. § 7542(c), and pursuant to the regulations found at 40 C.F.R. Part 2, Subpart B, including 40 C.F.R. § 2.301, you are entitled to assert a claim of business confidentiality for any information you provide to the EPA which you regard as confidential business information (CBI). For such information, you may request that the EPA treat such information as confidential. Any such claim of confidentiality must conform to the requirements of 40 C.F.R. § 2.203(b). Note that "emission data," as defined by 40 C.F.R. § 2.301(a)(2), cannot be claimed as confidential under Section 208(c) of the Act, 42 U.S.C. § 7542(c). For detailed instructions for claiming confidentiality, please see Enclosure 3. Information you supply under a claim of confidentiality will be treated in accordance with 40 C.F.R. Part 2, Subpart B, and will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to DHDTAP. Please note that any confidentiality claim does not obviate the need to send that portion of the response to the EPA.

The response to the information requested must be accompanied by Enclosure 5, Statement of Certification, which is to be signed and dated by a responsible official of DHDTAP. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this request that are known to you, following a complete and thorough review of all information and sources available to you.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 – 3520, because it seeks information from specific individuals or entities as part of an investigation.

If you have any questions regarding this matter, please contact Sharron Porter at (404) 562-9172 or by electronic mail at porter.sharron@epa.gov.

Sincerely,



Carol L. Kemker
Director
Enforcement and Compliance Assurance Division

Enclosures

ENCLOSURE 1

Instructions

1. Provide a complete, detailed response, in English, to each Request in Enclosure 4.
2. Provide a separate response to each and every question, and each and every subpart of a question.
3. Please provide your response to all questions of this Information Request in electronic form on a disk (CD or DVD media), flash drive, hard drive, or similar digital data storage device. All responsive documents and materials (e.g., copies of print media, audio, and visual material) must be provided as an accurate and legible copy in searchable format, number stamped in sequential order (e.g., BATES stamped).
4. Please provide your responses to Requests 1 through 7 in an unlocked, electronic spreadsheet format. For your convenience, the EPA has provided Enclosure 6 which consists of an Excel template in which you are requested to organize your responses to Requests 1 through 7. If Excel format is not available, then the format should allow for data to be imported and used in calculations by a standard spreadsheet program such as Excel. You may enter your responses directly onto the provided disk or utilize your preferred form of electronic media as described in Instruction 3 above.
5. Identify each person whom you relied on or consulted with in preparing your responses to each question of this information request. Provide their name, title, job duties and duration of employment with the company. If they are not an employee of the company, identify their employer and provide their name, title, job duties and duration of employment with their employer.
6. Where a Request allows or requires documents to be provided in response, provide all documents electronically in a file folder specific to that question or subpart and labeled accordingly.
7. When a response is provided in the form of a number, specify the units of measure.
8. Where documents or information necessary for a response is not in your possession, custody, or control, indicate in your response why such documents or information are not available or in your possession, custody, or control, and identify any source that either possesses or is likely to possess such information.
9. If you assert any objections in responding to this Information Request, each objection must state with specificity the grounds for objecting to the request, including the reasons, and must state whether any responsive materials are being withheld on the basis of that objection.
10. You must promptly supplement your response to any Request in Enclosure 4 in the event you learn that you possess responsive information not yet produced or if you gain possession, custody, or control of responsive information after responding to this Information Request.

ENCLOSURE 2

Definitions

1. The term “affiliated organization” or “affiliate” means any organization or entity associated with Down Home Diesel Tuning and Performance LLC as an agent, parent organization, predecessor corporation, sister company, subsidiary organization, or any organization or entity acting in lieu of you.
2. The term “applications” means all vehicle or engine configurations.
3. The term “catalysts” means systems or devices which increase the rate of a chemical reaction but are not one of the original reactants or final products, *i.e.*, the catalyst is not consumed or altered in the reaction. The term “catalysts” includes emission control catalysts such as diesel oxidation catalysts (“DOCs”), NO_x adsorber catalysts (“NACs”), and three-way catalysts (“TWCs”).
4. The term “derate” or “derating” means an electronic control module mode that reduces the engine power or vehicle speed after the OBD system identifies a problem with the emission control equipment.
5. The term “DPF” refers to diesel particulate filters, which are exhaust aftertreatment devices that typically use a porous ceramic or cordierite substrate or metallic filter to physically trap particulate matter (“PM”) and remove it from the exhaust stream.
6. The term “element of design” means any control system (e.g., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine, as defined in 40 C.F.R. §§ 86.094-2 and 86.1803-01.
7. The term “electronic control module” or “ECM” means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. The ECM uses software programming including calculations and tables of information to provide the appropriate outputs. Multiple electronic control modules may be incorporated in a single unit to control various engine, vehicle, or equipment functions. ECM can be a generic term but may refer specifically to the engine control module when discussing emission controls on vehicles and engines. Examples of electronic control modules include, but are not limited to, the Engine Control Module, OBD Control Modules, Powertrain Control Module (“PCM”), Transmission Control Module (“TCM”), Body Control Module (“BCM”) and aftertreatment control module.
8. The term “engine management product” or “EM product” means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information stored within or used by an ECM. EM products include, but are not limited to, programmers, modules, tuners, ECM calibration tools, replacement ECMs, flash tools, or engine management products.
9. The term “emission related parts” means those parts installed for the specific purpose of controlling emissions, or those components, systems, or elements of design which must function properly to

assure continued vehicle emission compliance, as defined in 40 C.F.R. § 85.2102.

10. The term “engine tune,” “tune,” or “calibration” means any combination of software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information, stored in any form, capable of affecting or controlling an ECM.
11. The term “entity” means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization or association.
12. The term “exhaust product” means exhaust components designed for use downstream from the exhaust port of a motor vehicle engine, and include, but are not limited to turbochargers, EGR block plates, EGR delete kits, EGR reroute kits, exhaust replacement pipes, downpipe-back exhaust systems, turbo-back exhaust systems, race pipes, test pipes and straight pipes.
13. The term “exhaust gas recirculation” or “EGR” means systems which redirect, usually by use of an EGR valve, a portion of engine exhaust back into the engine’s combustion chamber to cool and reduce peak combustion temperatures and pressures, thereby reducing the production of nitrogen oxides (“NO_x”). The EGR system may include an EGR cooler to cool the recirculated exhaust to further reduce the combustion temperature.
14. The term “information” includes any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intraoffice communications, electronic mail (“email”), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting, or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, presentations, spreadsheets, and worksheets. The term “information” includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term “information” also includes any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back-up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. Information bearing any notation not part of the original text is considered to be separate information. A draft or non-identical copy is separate information within the meaning of this term.
15. The term “manufacture” includes the creation, design, development, alteration, fabrication, production, or programming of a software code, software, hardware, program, element of design, calibration, engine tune, EM product, engine tuner, device, part, or component.

16. The term “onboard diagnostics” or “OBD” means systems which monitor components’ emission-related systems and assists repair technicians in diagnosing and fixing problems with those emission-related systems. If a problem is detected, an OBD system should record a Diagnostic Trouble Code (“DTC”), illuminate a Malfunction Indicator Light (“MIL”) or other warning lamp on the vehicle instrument panel, and/or provide information to the ECM which induces Engine Derate due to malfunctioning or missing emission-related systems.
17. The term “person” includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
18. The term “product” includes any software code, software, hardware, program, element of design, calibration, engine tune, EM product, device, part or component.
19. The term “you,” “your,” and “DHDTAP” means Down Home Diesel Tuning and Performance LLC and any affiliates, predecessors, successors, assignees, agents, employees, representatives, investigators, accountants, auditors, attorneys, experts, consultants, and contractors. These terms shall also mean any others who are not listed above and are in possession, custody, or control (actual or constructive) of information relevant to this request or information that is otherwise available to Down Home Diesel Tuning and Performance LLC, or who may have obtained information for or on behalf of Down Home Diesel Tuning and Performance LLC.
20. The term “SCR system” refers to the selective catalytic reduction system, which is an exhaust aftertreatment device designed to reduce NOx emissions by injecting a liquid reagent through a catalyst.
21. The term “service” means any action to change, affect, modify, bypass, render inoperative, remove, download and/or install one or more part(s) or component(s) (*e.g.*, emission control components) or other item(s), including, but not limited to, engine parts, block plates, straight pipes, power packages, computer tuning, calibrations, elements of design, tuners, tunes, software, code, or devices.

All terms not defined in this enclosure have their ordinary meaning, unless such terms are defined in the Clean Air Act and/or its implementing regulations, and in which case the statutory and/or regulatory definitions apply. Words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions. The terms “and” and “or” shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this information request any information which might otherwise be construed to be outside its scope.

ENCLOSURE 3

Confidential Business Information (CBI) Assertion and Substantiation Requirements

A. Assertion Requirements

You may assert a business confidentiality claim covering part or all of the information, other than emissions data and information or data that is otherwise publicly available, as described in 40 C.F.R. § 2.203(b). If no business confidentiality claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice. To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any information over which you make a claim of confidentiality should be marked by placing on or attaching to the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret" or "proprietary" or "business confidential" and a date if any when the information should no longer be treated as confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. Information covered by such a claim will be disclosed by the EPA only to the extent permitted and by means of the procedures set forth by Section 208(c) of the Act, and 40 C.F.R. Part 2, Subpart B.

B. Substantiation Requirements

All confidentiality claims are subject to the EPA verification and must be made in accordance with 40 C.F.R. Part 2, Subpart B. You bear the burden of substantiating your confidentiality claim and must satisfactorily show that disclosure of the information would be likely to cause substantial harm to your business' competitive position; that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; and that the information is not and has not been reasonably obtainable by legitimate means without your consent, among other things. Conclusory allegations will be given little or no weight.

Before the EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, the EPA will send you a letter asking you to substantiate fully your CBI claim by answering 11 questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. You must provide the EPA with a response within the number of days set forth in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

The EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied. Any information not specifically identified as subject to a confidentiality claim may be disclosed without further notice to you. For each item or class of information that you identify as being confidential, the EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in the EPA's determination:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. For each item or category of information claimed as confidential, explain with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
8. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
9. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.
10. If you believe any information to be (a) trade secret (s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret (s).
11. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data).

Please note that emission data provided under Section 208 of the Act, 42 U.S.C. § 7542, is not entitled to confidential treatment under 40 C.F.R. Part 2. "Emission data" means, with reference to any source of emission of any substance into the air - (A) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission

which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing; (B) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and (C) a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

ENCLOSURE 4

Request for Information

Down Home Diesel Tuning and Performance LLC, shall submit the following information to the EPA, pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, regarding certain parts or components that you either manufactured (i.e., created, wrote, programmed, fabricated, produced, or modified), offered for sale, sold, or installed since November 1, 2017.

Provide the following information in Enclosure 6, worksheet 1.

1. Identify each EM product DHDTAP manufactured, sold, offered for sale, or installed during the period from November 1, 2017, through the date of this letter, in Enclosure 6, worksheet 1, and provide the:
 - a. Part Number, Item Code, or other unique identifier used by DHDTAP;
 - b. Product name;
 - c. Product manufacturer (if different);
 - d. Identify the product's applications by vehicle type, make, model, and year;
 - e. Quantity DHDTAP sold during the period November 1, 2017, through the date of this Information Request;
 - f. Average DHDTAP sale price;
 - g. Indicate if you advertised this product and provide the electronic file names of each advertisement (if applicable);
 - h. Identify whether the product affects or changes fuel delivery rate, timing of mixtures, diagnostics, turbo boost, or other engine parameters or calibrations.
 - i. Describe how the product differs from the stock components it replaces or specifically changes the stock configuration. You may provide owner's or installation manuals for a product in lieu of a narrative description if you identify the electronic names of the files.
 - j. Is the product sold with or without the following:
 - i. Tunes;
 - ii. Tunes from the EM product manufacturer;
 - iii. Tunes manufactured by you;
 - iv. Tunes manufactured by you sold without an EM product (i.e. calibration file only);
 - v. If no to i – iv, describe the product in detail.
 - k. If the product includes a tune manufactured by you provide the following:
 - i. The software used to develop the tune;
 - ii. The developer of the software; and
 - iii. A list of compatible EM products.
 - l. Does the product permanently or temporarily change, affect, or bypass a motor vehicle's emission related parts, including but not limited to the:
 - i. EGR;
 - ii. DPF
 - iii. SCR;
 - iv. catalyst;
 - v. OBD; or
 - vi. any sensors, signals, or records related to these systems;

- m. Indicate whether the product modifies, interferes, or overrides the vehicles' OBD system;
- n. Indicate whether the product replaces or overwrites an ECM;
- o. Indicate whether, together with the addition, modification, or removal of a motor vehicle's parts, the product has the effect to permanently or temporarily change, affect, bypass, defeat, or render inoperative a motor vehicle emission control device or emission related part; and
- p. Quantity company installed during the period November 1, 2017, through the date of this Information Request.

2. For each product identified in response to Request 1, indicate in Enclosure 6, worksheet 1 whether:

- a. the product is capable of disabling the EGR without illuminating a MIL or prompting any on-board DTC;
- b. DHDTAP has sold a version of the product that, upon installation and without post-sale modification of the product, disables or allows the end user to disable the EGR without illuminating a MIL or prompting any DTC;
- c. the product is capable of disabling the EGR without any engine derating;
- d. DHDTAP has sold a version of the product that, upon installation and without post-sale modification of the product, disables or allows the end user to disable the EGR without any engine derating;
- e. the product is capable of allowing the removal of the EGR without illuminating a MIL or prompting any on-board DTC;
- f. DHDTAP has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the EGR without illuminating a MIL or prompting any DTC;
- g. the product is capable of allowing the removal of the EGR without any engine derating;
- h. DHDTAP has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the EGR without any engine derating;
- i. the product is capable of allowing removal of a DPF without illuminating a MIL or prompting any DTC;
- j. DHDTAP has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the DPF without illuminating a MIL or prompting any DTC;
- k. the product is capable of allowing removal of a DPF without any engine derating;
- l. DHDTAP has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a DPF without any engine derating;
- m. the product is capable of disabling or allowing removal of a SCR system without illuminating a MIL or prompting any DTC;
- n. DHDTAP has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a SCR system without illuminating a MIL or prompting any DTC;
- o. the product is capable of allowing removal of a SCR system without any engine derating;
- p. DHDTAP has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a SCR system without any engine derating;
- q. the product is capable of allowing removal of a catalyst without illuminating a MIL or prompting any DTC;

- r. DHDTAP has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a catalyst without illuminating a MIL or prompting any DTC;
 - s. the product is capable of allowing removal of a catalyst without any engine derating;
 - t. DHDTAP has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a catalyst without any engine derating;
 - u. DHDTAP has sold a version of the product that, upon installation and without post-sale modification of the product, alters fuel timing maps within engine electronic calibrations;
 - v. the product is capable of bypassing or altering parameters to prevent DTCs or MILs from being recorded or illuminated; and
 - w. DHDTAP has sold a version of the product that, upon installation and without post-sale modification of the product, prevents DTCs or MILs from being recorded or illuminated.
3. For each product identified in response to Request 1 which DHDTAP sold during the period November 1, 2017, through the date of this Information Request, provide all sales information using the format provided in Enclosure 6, worksheet 2. DHDTAP may provide the requested information in an electronic spreadsheet exported from an invoice management program such as QuickBooks in lieu of using Enclosure 6, worksheet 2.

Provide the following information in Enclosure 6, worksheet 3.

4. For products identified in response to Request 1, state whether DHDTAP or any other entity conducted tests measuring emissions of hydrocarbons, carbon monoxide, nitrogen oxides, or particulate matter, including tests that measure the impact of the product on motor vehicle emissions or that measure the impact of the product on a vehicle's emission control devices or elements of design. For each such test, provide the following information:
- a. a description of the test, including identification of the product and vehicle, the EPA engine family, name of the vehicle, test equipment, test protocols, and calibration procedures;
 - b. any training or instructional materials used for educating employees and affiliates about how to perform the test; and
 - c. the date and location of the test, the name and position of the person that conducted the test, and the test results.
5. For products that are identified in response to Request 1:
- a. State whether DHDTAP or any other entity submitted an application for an Executive Order to the California Air Resources Board;
 - i. if so, provide a copy of the application for each product.
 - b. State whether each product received an Executive Order exempting the product from California's emission control system anti-tampering law, California Vehicle Code § 27156.
 - c. If the product received an Executive Order, provide the Executive Order number; and
 - d. If the product received an Executive Order, state whether the California Air Resources Board required changes to the product or application to receive approval.

Provide the following information.

6. Provide a complete, unedited copy of each estimate, work order, invoice and bill of sale for every vehicle serviced by DHDTAP between November 1, 2017, and the date of this request, including copies of any attachments.
7. For each product identified in response to Request 1:
 - a. provide a detailed written description of all methods by which the product has been promoted or publicized by DHDTAP, including but not limited to, print media, commercial websites, point-of-sale webpages, event promotion or sponsorship, trade show promotion, or social media promotion, including promotion dates and/or date ranges, if applicable;
 - b. provide copies of all advertisements for the product published in print or electronic media, including commercial websites, point-of-sale webpages, or social media;
 - c. provide a list of other entities known to have advertised the product; and
 - d. provide all manuals available (e.g., owner's and installation).
8. Provide a detailed, written description of DHDTAP's business structure including ownership, corporate form, parent, sister and/or subsidiary companies, and affiliated organizations.
9. Provide the location of all warehouses or storage facilities where DHDTAP stores products.
10. Provide a list of all internet websites, stores and/or platforms where DHDTAP sells engine management and/or exhaust products.

ENCLOSURE 5

STATEMENT OF CERTIFICATION

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001, 1341 and 1505.

(Signature)

(Printed Name)

(Title)

(Date)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

NOV 8 2019

UNITED PARCEL SERVICE
EMAIL VERIFICATION REQUESTED

First Coast Diesel Performance, Inc.
Adam Hohrath, President
130 College Drive
Orange Park, Florida 32065

Dear Mr. Hohrath:

Pursuant to Section 208(a) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7542(a), you are hereby required to provide the U.S. Environmental Protection Agency with information relating to First Coast Diesel Performance, Inc.'s (FCDP) business. The EPA is seeking this information to determine whether FCDP is in compliance with requirements of Sections 203(a) and 213(d) of the Act, 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable motor vehicle regulations at 40 C.F.R. Parts 85, 86, and 1068.

The EPA issues this Request for Information under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA, Title II, Part A – Motor Vehicle Emission and Fuel Standards, Sections 202 – 219, 42 U.S.C. §§ 7521-7554, to perform tests and provide information necessary to determine whether the person is acting or has acted in compliance with the CAA and the regulations promulgated thereunder. The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, Region 4.

Please review the following enclosures and complete as appropriate: Instructions (Enclosure 1), Definitions (Enclosure 2), Claiming Confidentiality (Enclosure 3), Request for Information (Enclosure 4), Statement of Certification (Enclosure 5), and Response Excel Template (Enclosure 6).

Please submit the requested information to the EPA per the instructions contained in Enclosure 1. Your responses are required to be submitted **no later than thirty (30) calendar days** after FCDP's receipt of this letter as determined by the date of the Email Verification, unless the EPA, for good cause shown, extends in writing the deadline for responding to the request. This information must be submitted to the following individual:

Todd Groendyke
Air Enforcement Branch
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Atlanta, Georgia 30303

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Failure to provide the information required by this letter is a violation of the Act and may result in one or more of the following actions: (1) commencement of a civil action seeking compliance with this request pursuant to Section 204 of the Act, 42 U.S.C. § 7523; (2) issuance of an administrative penalty order pursuant to Section 205(c) of the Act, 42 U.S.C. § 7424(c); (3) commencement of a civil action in accordance with Section 205(b) of the Act, 42 U.S.C. § 7524(b); and/or (4) any other action authorized under the Act.

Under Section 208(c) of the Act, 42 U.S.C. § 7542(c), and pursuant to the regulations found at 40 C.F.R. Part 2, Subpart B, including 40 C.F.R. § 2.301, you are entitled to assert a claim of business confidentiality for any information you provide to the EPA which you regard as confidential business information (CBI). For such information, you may request that the EPA treat such information as confidential. Any such claim of confidentiality must conform to the requirements of 40 C.F.R. § 2.203(b). Note that "emission data," as defined by 40 C.F.R. § 2.301(a)(2), cannot be claimed as confidential under Section 208(c) of the Act, 42 U.S.C. § 7542(c). For detailed instructions for claiming confidentiality, please see Enclosure 3. Information you supply under a claim of confidentiality will be treated in accordance with 40 C.F.R. Part 2, Subpart B, and will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to FCDP. Please note that any confidentiality claim does not obviate the need to send that portion of the response to the EPA.

The response to the information requested must be accompanied by Enclosure 5, Statement of Certification, which is to be signed and dated by a responsible official of FCDP. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this request that are known to you, following a complete and thorough review of all information and sources available to you.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 – 3520, because it seeks information from specific individuals or entities as part of an investigation.

If you have any questions regarding this matter, please contact Todd Groendyke at (404) 562-8262 or by electronic mail at groendyke.todd@epa.gov.

Sincerely,



Carol L. Kemker
Director
Enforcement and Compliance Assurance Division

Enclosures

ENCLOSURE 1

Instructions

1. Provide a complete, detailed response, in English, to each Request in Enclosure 4.
2. Provide a separate response to each and every question, and each and every subpart of a question.
3. Please provide your response to all questions of this Information Request in electronic form on a disk (CD or DVD media), flash drive, hard drive, or similar digital data storage device. All responsive documents and materials (e.g., copies of print media, audio, and visual material) must be provided as an accurate and legible copy in searchable format, number stamped in sequential order (e.g., BATES stamped).
4. Please provide your responses to Requests 1 through 7 in an unlocked, electronic spreadsheet format. For your convenience, the EPA has provided Enclosure 6 which consists of an Excel template in which you are requested to organize your responses to Requests 1 through 7. If Excel format is not available, then the format should allow for data to be imported and used in calculations by a standard spreadsheet program such as Excel. You may enter your responses directly onto the provided disk or utilize your preferred form of electronic media as described in Instruction 3 above.
5. Identify each person whom you relied on or consulted with in preparing your responses to each question of this information request. Provide their name, title, job duties and duration of employment with the company. If they are not an employee of the company, identify their employer and provide their name, title, job duties and duration of employment with their employer.
6. Where a Request allows or requires documents to be provided in response, provide all documents electronically in a file folder specific to that question or subpart and labeled accordingly.
7. When a response is provided in the form of a number, specify the units of measure.
8. Where documents or information necessary for a response is not in your possession, custody, or control, indicate in your response why such documents or information are not available or in your possession, custody, or control, and identify any source that either possesses or is likely to possess such information.
9. If you assert any objections in responding to this Information Request, each objection must state with specificity the grounds for objecting to the request, including the reasons, and must state whether any responsive materials are being withheld on the basis of that objection.
10. You must promptly supplement your response to any Request in Enclosure 4 in the event you learn that you possess responsive information not yet produced or if you gain possession, custody, or control of responsive information after responding to this Information Request.

ENCLOSURE 2

Definitions

1. The term “affiliated organization” or “affiliate” means any organization or entity associated with First Coast Diesel Performance, Inc. as an agent, parent organization, predecessor corporation, sister company, subsidiary organization, or any organization or entity acting in lieu of you.
2. The term “applications” means all vehicle or engine configurations.
3. The term “catalysts” means systems or devices which increase the rate of a chemical reaction but are not one of the original reactants or final products, *i.e.*, the catalyst is not consumed or altered in the reaction. The term “catalysts” includes emission control catalysts such as diesel oxidation catalysts (“DOCs”), NO_x adsorber catalysts (“NACs”), and three-way catalysts (“TWCs”).
4. The term “derate” or “derating” means an electronic control module mode that reduces the engine power or vehicle speed after the OBD system identifies a problem with the emission control equipment.
5. The term “DPF” refers to diesel particulate filters, which are exhaust aftertreatment devices that typically use a porous ceramic or cordierite substrate or metallic filter to physically trap particulate matter (“PM”) and remove it from the exhaust stream.
6. The term “element of design” means any control system (e.g., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine, as defined in 40 C.F.R. §§ 86.094-2 and 86.1803-01.
7. The term “electronic control module” or “ECM” means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. The ECM uses software programming including calculations and tables of information to provide the appropriate outputs. Multiple electronic control modules may be incorporated in a single unit to control various engine, vehicle, or equipment functions. ECM can be a generic term but may refer specifically to the engine control module when discussing emission controls on vehicles and engines. Examples of electronic control modules include, but are not limited to, the Engine Control Module, OBD Control Modules, Powertrain Control Module (“PCM”), Transmission Control Module (“TCM”), Body Control Module (“BCM”) and aftertreatment control module.
8. The term “EM product” means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information stored within or used by an ECM. EM products include, but are not limited to, programmers, modules, tuners, ECM calibration tools, replacement ECMs, flash tools, or engine management products.
9. The term “emission related parts” means those parts installed for the specific purpose of controlling emissions, or those components, systems, or elements of design which must function properly to assure continued vehicle emission compliance, as defined in 40 C.F.R. § 85.2102.

10. The term “engine tune,” “tune,” or “calibration” means any combination of software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information, stored in any form, capable of affecting or controlling an ECM.
11. The term “entity” means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization or association.
12. The term “exhaust product” means exhaust components designed for use downstream from the exhaust port of a motor vehicle engine, and include, but are not limited to turbochargers, EGR block plates, EGR delete kits, EGR reroute kits, exhaust replacement pipes, downpipe-back exhaust systems, turbo-back exhaust systems, race pipes, test pipes and straight pipes.
13. The term “exhaust gas recirculation” or “EGR” means systems which redirect, usually by use of an EGR valve, a portion of engine exhaust back into the engine’s combustion chamber to cool and reduce peak combustion temperatures and pressures, thereby reducing the production of nitrogen oxides (“NOx”). The EGR system may include an EGR cooler to cool the recirculated exhaust to further reduce the combustion temperature.
14. The term “information” includes any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intraoffice communications, electronic mail (“email”), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting, or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, presentations, spreadsheets, and worksheets. The term “information” includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term “information” also includes any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back-up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. Information bearing any notation not part of the original text is considered to be separate information. A draft or non-identical copy is separate information within the meaning of this term.
15. The term “manufacture” includes the creation, design, development, alteration, fabrication, production, or programming of a software code, software, hardware, program, element of design, calibration, engine tune, EM product, engine tuner, device, part, or component.

16. The term "onboard diagnostics" or "OBD" means systems which monitor components' emission-related systems and assists repair technicians in diagnosing and fixing problems with those emission-related systems. If a problem is detected, an OBD system should record a Diagnostic Trouble Code ("DTC"), illuminate a Malfunction Indicator Light ("MIL") or other warning lamp on the vehicle instrument panel, and/or provide information to the ECM which induces Engine Derate due to malfunctioning or missing emission-related systems.
17. The term "person" includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
18. The term "product" includes any software code, software, hardware, program, element of design, calibration, engine tune, EM product, device, part or component.
19. The term "you," "your," and "FCDP" means First Coast Diesel Performance, Inc. and any affiliates, predecessors, successors, assignees, agents, employees, representatives, investigators, accountants, auditors, attorneys, experts, consultants, and contractors. These terms shall also mean any others who are not listed above and are in possession, custody, or control (actual or constructive) of information relevant to this request or information that is otherwise available to First Coast Diesel Performance, Inc., or who may have obtained information for or on behalf of First Coast Diesel Performance, Inc.
20. The term "SCR system" refers to the selective catalytic reduction system, which is an exhaust aftertreatment device designed to reduce NOx emissions by injecting a liquid reagent through a catalyst.
21. The term "service" means any action to change, affect, modify, bypass, render inoperative, remove, download and/or install one or more part(s) or component(s) (e.g., emission control components) or other item(s), including, but not limited to, engine parts, block plates, straight pipes, power packages, computer tuning, calibrations, elements of design, tuners, tunes, software, code, or devices.

All terms not defined in this enclosure have their ordinary meaning, unless such terms are defined in the Clean Air Act and/or its implementing regulations, and in which case the statutory and/or regulatory definitions apply. Words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions. The terms "and" and "or" shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this information request any information which might otherwise be construed to be outside its scope.

ENCLOSURE 3

Confidential Business Information (CBI) Assertion and Substantiation Requirements

A. Assertion Requirements

You may assert a business confidentiality claim covering part or all of the information, other than emissions data and information or data that is otherwise publicly available, as described in 40 C.F.R. § 2.203(b). If no business confidentiality claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice. To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any information over which you make a claim of confidentiality should be marked by placing on or attaching to the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret" or "proprietary" or "business confidential" and a date if any when the information should no longer be treated as confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. Information covered by such a claim will be disclosed by the EPA only to the extent permitted and by means of the procedures set forth by Section 208(c) of the Act, and 40 C.F.R. Part 2, Subpart B.

B. Substantiation Requirements

All confidentiality claims are subject to the EPA verification and must be made in accordance with 40 C.F.R. Part 2, Subpart B. You bear the burden of substantiating your confidentiality claim and must satisfactorily show that disclosure of the information would be likely to cause substantial harm to your business' competitive position; that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; and that the information is not and has not been reasonably obtainable by legitimate means without your consent, among other things. Conclusory allegations will be given little or no weight.

Before the EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, the EPA will send you a letter asking you to substantiate fully your CBI claim by answering 11 questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. You must provide the EPA with a response within the number of days set forth in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

The EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied. Any information not specifically identified as subject to a confidentiality claim may be disclosed without further notice to you. For each item or class of information that you identify as being confidential, the EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in the EPA's determination:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. For each item or category of information claimed as confidential, explain with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
8. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
9. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.
10. If you believe any information to be (a) trade secret (s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret (s).
11. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data).

Please note that emission data provided under Section 208 of the Act, 42 U.S.C. § 7542, is not entitled to confidential treatment under 40 C.F.R. Part 2. "Emission data" means, with reference to any source of emission of any substance into the air - (A) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission

which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing; (B) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and (C) a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

ENCLOSURE 4

Request for Information

First Coast Diesel Performance, Inc., shall submit the following information to the EPA, pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, regarding certain parts or components that you either manufactured (i.e., created, wrote, programmed, fabricated, produced, or modified), offered for sale, sold, or installed since October 1, 2018.

Provide the following information in Enclosure 6, worksheet 1.

1. Identify each EM product FCDP manufactured, sold, offered for sale, or installed during the period from October 1, 2018, through the date of this letter, in Enclosure 6, worksheet 1, and provide the:
 - a. Part Number, Item Code, or other unique identifier used by FCDP;
 - b. Product name;
 - c. Product manufacturer (if different);
 - d. Identify the product's applications by vehicle type, make, model, and year;
 - e. Quantity FCDP sold during the period October 1, 2018, through the date of this Information Request;
 - f. Average FCDP sale price;
 - g. Indicate if you advertised this product and provide the electronic file names of each advertisement (if applicable);
 - h. Identify whether the product affects or changes fuel delivery rate, timing of mixtures, diagnostics, turbo boost, or other engine parameters or calibrations.
 - i. Describe how the product differs from the stock components it replaces or specifically changes the stock configuration. You may provide owner's or installation manuals for a product in lieu of a narrative description if you identify the electronic names of the files.
 - j. Is the product sold with or without the following:
 - i. Tunes;
 - ii. Tunes from the EM product manufacturer;
 - iii. Tunes manufactured by you;
 - iv. Tunes manufactured by you sold without an EM product (i.e. calibration file only);
 - v. If no to i – iv, describe the product in detail.
 - k. If the product includes a tune manufactured by you provide the following:
 - i. The software used to develop the tune;
 - ii. The developer of the software; and
 - iii. A list of compatible EM products.
 - l. Does the product permanently or temporarily change, affect, or bypass a motor vehicle's emission related parts, including but not limited to the:
 - i. EGR;
 - ii. DPF
 - iii. SCR;
 - iv. catalyst;
 - v. OBD; or
 - vi. any sensors, signals, or records related to these systems;

- m. Indicate whether the product modifies, interferes, or overrides the vehicles' OBD system;
 - n. Indicate whether the product replaces or overwrites an ECM;
 - o. Indicate whether, together with the addition, modification, or removal of a motor vehicle's parts, the product has the effect to permanently or temporarily change, affect, bypass, defeat, or render inoperative a motor vehicle emission control device or emission related part; and
 - p. Quantity company installed during the period October 1, 2018, through the date of this Information Request.
2. For each product identified in response to Request 1, indicate in Enclosure 6, worksheet 1 whether:
- a. the product is capable of disabling the EGR without illuminating a MIL or prompting any on-board DTC;
 - b. FCDP has sold a version of the product that, upon installation and without post-sale modification of the product, disables or allows the end user to disable the EGR without illuminating a MIL or prompting any DTC;
 - c. the product is capable of disabling the EGR without any engine derating;
 - d. FCDP has sold a version of the product that, upon installation and without post-sale modification of the product, disables or allows the end user to disable the EGR without any engine derating;
 - e. the product is capable of allowing the removal of the EGR without illuminating a MIL or prompting any on-board DTC;
 - f. FCDP has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the EGR without illuminating a MIL or prompting any DTC;
 - g. the product is capable of allowing the removal of the EGR without any engine derating;
 - h. FCDP has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the EGR without any engine derating;
 - i. the product is capable of allowing removal of a DPF without illuminating a MIL or prompting any DTC;
 - j. FCDP has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the DPF without illuminating a MIL or prompting any DTC;
 - k. the product is capable of allowing removal of a DPF without any engine derating;
 - l. FCDP has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a DPF without any engine derating;
 - m. the product is capable of disabling or allowing removal of a SCR system without illuminating a MIL or prompting any DTC;
 - n. FCDP has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a SCR system without illuminating a MIL or prompting any DTC;
 - o. the product is capable of allowing removal of a SCR system without any engine derating;
 - p. FCDP has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a SCR system without any engine derating;
 - q. the product is capable of allowing removal of a catalyst without illuminating a MIL or prompting any DTC;

- r. FCDP has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a catalyst without illuminating a MIL or prompting any DTC;
 - s. the product is capable of allowing removal of a catalyst without any engine derating;
 - t. FCDP has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a catalyst without any engine derating;
 - u. FCDP has sold a version of the product that, upon installation and without post-sale modification of the product, alters fuel timing maps within engine electronic calibrations;
 - v. the product is capable of bypassing or altering parameters to prevent DTCs or MILs from being recorded or illuminated; and
 - w. FCDP has sold a version of the product that, upon installation and without post-sale modification of the product, prevents DTCs or MILs from being recorded or illuminated.
3. For each product identified in response to Request 1 which FCDP sold during the period October 1, 2018, through the date of this Information Request, provide all sales information using the format provided in Enclosure 6, worksheet 2. FCDP may provide the requested information in an electronic spreadsheet exported from an invoice management program such as QuickBooks in lieu of using Enclosure 6, worksheet 2.
4. Identify each exhaust product manufactured, sold, offered for sale, or installed during the period from October 1, 2018, through the date of this letter, in Enclosure 6, worksheet 3, and provide the:
- a. Part Number, Item Code, or other unique identifier used by FCDP;
 - b. Product name;
 - c. Product manufacturer (if different);
 - d. Identify the product's applications by vehicle type, make, model, and year;
 - e. Quantity FCDP sold during the period October 1, 2018, through the date of this Information Request;
 - f. Average FCDP sale price;
 - g. Indicate if you have advertised this product and provide electronic file names of each advertisement (if applicable);
 - h. Describe how the product differs from the stock components it replaces or specifically changes the stock configuration. You may provide owner's or installation manuals for a product in lieu of a narrative description if you identify the electronic names of the files.
 - i. Does the product permanently or temporarily changes, affects, or bypasses a motor vehicle's emission related parts, including but not limited to the:
 - i. EGR;
 - ii. DPF;
 - iii. SCR;
 - iv. Catalyst;
 - v. OBD; or
 - vi. any sensors, signals, or records related to these systems;
 - j. Indicate whether, together with the addition, modification, or removal of a motor vehicle's parts, the product has the effect to permanently or temporarily change, affect, bypass, defeat, or render inoperative a motor vehicle emission control device or emission related part; and

- k. Quantity FCDP installed during the period October 1, 2018, through the date of this Information Request.
5. For each product identified in response to Request 4 which FCDP sold during the period October 1, 2018, through the date of this Information Request, provide all sales information using the format provided in Enclosure 6, worksheet 4. FCDP may provide the requested information in an electronic spreadsheet exported from an invoice management program such as QuickBooks in lieu of using Enclosure 6, worksheet 4.

Provide the following information in Enclosure 6, worksheet 5.

6. For products identified in response to Requests 1 and 4, state whether FCDP or any other entity conducted tests measuring emissions of hydrocarbons, carbon monoxide, nitrogen oxides, or particulate matter, including tests that measure the impact of the product on motor vehicle emissions or that measure the impact of the product on a vehicle's emission control devices or elements of design. For each such test, provide the following information:
- a. a description of the test, including identification of the product and vehicle, the EPA engine family, name of the vehicle, test equipment, test protocols, and calibration procedures;
 - b. any training or instructional materials used for educating employees and affiliates about how to perform the test; and
 - c. the date and location of the test, the name and position of the person that conducted the test, and the test results.
7. For products that are identified in response to Requests 1 and 4:
- a. State whether FCDP or any other entity submitted an application for an Executive Order to the California Air Resources Board;
 - i. if so, provide a copy of the application for each product.
 - b. State whether each product received an Executive Order exempting the product from California's emission control system anti-tampering law, California Vehicle Code § 27156.
 - c. If the product received an Executive Order, provide the Executive Order number; and
 - d. If the product received an Executive Order, state whether the California Air Resources Board required changes to the product or application to receive approval.

Provide the following information.

8. Provide a complete, unedited copy of every estimate, work order, invoice and final bill for each vehicle serviced by FCDP between October 1, 2018, and the date of this request, including copies of all attachments.
9. For each product identified in response to Requests 1 and 4:
- a. provide a detailed written description of all methods by which the product has been promoted or publicized by FCDP, including but not limited to, print media, commercial websites, point-of-sale webpages, event promotion or sponsorship, trade show promotion, or social media promotion, including promotion dates and/or date ranges, if applicable;
 - b. provide copies of all advertisements for the product published in print or electronic

- media, including commercial websites, point-of-sale webpages, or social media;
 - c. provide a list of other entities known to have advertised the product; and
 - d. provide all manuals available (e.g., owner's and installation).
10. Provide a detailed, written description of FCDP's business structure including ownership, corporate form, parent, sister and/or subsidiary companies, and affiliated organizations.
 11. Provide the location of all warehouses or storage facilities where FCDP stores products.

ENCLOSURE 5

STATEMENT OF CERTIFICATION

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001, 1341 and 1505.

(Signature)

(Printed Name)

(Title)

(Date)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

NOV 26 2019

UNITED PARCEL SERVICE
EMAIL VERIFICATION REQUESTED

Ryan Casserly, Owner
Full Force Diesel Performance, Inc.
7822 Manchester Pike
Murfreesboro, Tennessee 37127

Dear Mr. Casserly:

Pursuant to Section 208(a) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7542(a), you are hereby required to provide the U.S. Environmental Protection Agency with information relating to Full Force Diesel Performance, Inc.'s (FFDP) business. The EPA is seeking this information to determine whether FFDP is in compliance with requirements of Sections 203(a) and 213(d) of the Act, 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable motor vehicle regulations at 40 C.F.R. Parts 85, 86, and 1068.

The EPA issues this Request for Information under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA, Title II, Part A – Motor Vehicle Emission and Fuel Standards, Sections 202 – 219, 42 U.S.C. §§ 7521-7554, to perform tests and provide information necessary to determine whether the person is acting or has acted in compliance with the CAA and the regulations promulgated thereunder. The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, Region 4.

Please review the following enclosures and complete as appropriate: Instructions (Enclosure 1), Definitions (Enclosure 2), Claiming Confidentiality (Enclosure 3), Request for Information (Enclosure 4), Statement of Certification (Enclosure 5), and Response Excel Template (Enclosure 6).

Please submit the requested information to the EPA per the instructions contained in Enclosure 1. Your responses are required to be submitted **no later than thirty (30) calendar days** after FFDP's receipt of this letter as determined by the date of the Email Verification, unless the EPA, for good cause shown, extends in writing the deadline for responding to the request. This information must be submitted to the following individual:

Todd Groendyke
Air Enforcement Branch
U.S. EPA, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Failure to provide the information required by this letter is a violation of the Act and may result in one or more of the following actions: (1) commencement of a civil action seeking compliance with this request pursuant to Section 204 of the Act, 42 U.S.C. § 7523; (2) issuance of an administrative penalty order pursuant to Section 205(c) of the Act, 42 U.S.C. § 7424(c); (3) commencement of a civil action in accordance with Section 205(b) of the Act, 42 U.S.C. § 7524(b); and/or (4) any other action authorized under the Act.

Under Section 208(c) of the Act, 42 U.S.C. § 7542(c), and pursuant to the regulations found at 40 C.F.R. Part 2, Subpart B, including 40 C.F.R. § 2.301, you are entitled to assert a claim of business confidentiality for any information you provide to the EPA which you regard as confidential business information (CBI). For such information, you may request that the EPA treat such information as confidential. Any such claim of confidentiality must conform to the requirements of 40 C.F.R. § 2.203(b). Note that "emission data," as defined by 40 C.F.R. § 2.301(a)(2), cannot be claimed as confidential under Section 208(c) of the Act, 42 U.S.C. § 7542(c). For detailed instructions for claiming confidentiality, please see Enclosure 3. Information you supply under a claim of confidentiality will be treated in accordance with 40 C.F.R. Part 2, Subpart B, and will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to FFDP. Please note that any confidentiality claim does not obviate the need to send that portion of the response to the EPA.

The response to the information requested must be accompanied by Enclosure 5, Statement of Certification, which is to be signed and dated by a responsible official of FFDP. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this request that are known to you, following a complete and thorough review of all information and sources available to you.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 – 3520, because it seeks information from specific individuals or entities as part of an investigation.

If you have any questions regarding this matter, please contact Todd Groendyke at (404) 562-8262 or by electronic mail at groendyke.todd@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Carol L. Kemker". The signature is fluid and cursive, with a large initial "C" and "K".

Carol L. Kemker
Director
Enforcement and Compliance Assurance Division

Enclosures

ENCLOSURE 1

Instructions

1. Provide a complete, detailed response, in English, to each Request in Enclosure 4.
2. Provide a separate response to each and every question, and each and every subpart of a question.
3. Please provide your response to all questions of this Information Request in electronic form on a disk (CD or DVD media), flash drive, hard drive, or similar digital data storage device. All responsive documents and materials (e.g., copies of print media, audio, and visual material) must be provided as an accurate and legible copy in searchable format, number stamped in sequential order (e.g., BATES stamped).
4. Please provide your responses to Requests 1 through 7 in an unlocked, electronic spreadsheet format. For your convenience, the EPA has provided Enclosure 6 which consists of an Excel template in which you are requested to organize your responses to Requests 1 through 7. If Excel format is not available, then the format should allow for data to be imported and used in calculations by a standard spreadsheet program such as Excel. You may enter your responses directly onto the provided disk or utilize your preferred form of electronic media as described in Instruction 3 above.
5. Identify each person whom you relied on or consulted with in preparing your responses to each question of this information request. Provide their name, title, job duties and duration of employment with the company. If they are not an employee of the company, identify their employer and provide their name, title, job duties and duration of employment with their employer.
6. Where a Request allows or requires documents to be provided in response, provide all documents electronically in a file folder specific to that question or subpart and labeled accordingly.
7. When a response is provided in the form of a number, specify the units of measure.
8. Where documents or information necessary for a response is not in your possession, custody, or control, indicate in your response why such documents or information are not available or in your possession, custody, or control, and identify any source that either possesses or is likely to possess such information.
9. If you assert any objections in responding to this Information Request, each objection must state with specificity the grounds for objecting to the request, including the reasons, and must state whether any responsive materials are being withheld on the basis of that objection.
10. You must promptly supplement your response to any Request in Enclosure 4 in the event you learn that you possess responsive information not yet produced or if you gain possession, custody, or control of responsive information after responding to this Information Request.

ENCLOSURE 2

Definitions

1. The term “affiliated organization” or “affiliate” means any organization or entity associated with Full Force Diesel Performance, Inc., as an agent, parent organization, predecessor corporation, sister company, subsidiary organization, or any organization or entity acting in lieu of you.
2. The term “applications” means all vehicle or engine configurations.
3. The term “catalysts” means systems or devices which increase the rate of a chemical reaction but are not one of the original reactants or final products, *i.e.*, the catalyst is not consumed or altered in the reaction. The term “catalysts” includes emission control catalysts such as diesel oxidation catalysts (“DOCs”), NO_x adsorber catalysts (“NACs”), and three-way catalysts (“TWCs”).
4. The term “derate” or “derating” means an electronic control module mode that reduces the engine power or vehicle speed after the OBD system identifies a problem with the emission control equipment.
5. The term “DPF” refers to diesel particulate filters, which are exhaust aftertreatment devices that typically use a porous ceramic or cordierite substrate or metallic filter to physically trap particulate matter (“PM”) and remove it from the exhaust stream.
6. The term “element of design” means any control system (e.g., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine, as defined in 40 C.F.R. §§ 86.094-2 and 86.1803-01.
7. The term “electronic control module” or “ECM” means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. The ECM uses software programming including calculations and tables of information to provide the appropriate outputs. Multiple electronic control modules may be incorporated in a single unit to control various engine, vehicle, or equipment functions. ECM can be a generic term but may refer specifically to the engine control module when discussing emission controls on vehicles and engines. Examples of electronic control modules include, but are not limited to, the Engine Control Module, OBD Control Modules, Powertrain Control Module (“PCM”), Transmission Control Module (“TCM”), Body Control Module (“BCM”) and aftertreatment control module.
8. The term “engine management product” or “EM product” means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information stored within or used by an ECM. EM products include, but are not limited to, programmers, modules, tuners, ECM calibration tools, replacement ECMs, flash tools, or engine management products.
9. The term “emission related parts” means those parts installed for the specific purpose of controlling emissions, or those components, systems, or elements of design which must function properly to assure continued vehicle emission compliance, as defined in 40 C.F.R. § 85.2102.

10. The term “engine tune,” “tune,” or “calibration” means any combination of software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information, stored in any form, capable of affecting or controlling an ECM.
11. The term “entity” means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization or association.
12. The term “exhaust product” means exhaust components designed for use downstream from the exhaust port of a motor vehicle engine, and include, but are not limited to turbochargers, EGR block plates, EGR delete kits, EGR reroute kits, EGR solution kits, exhaust replacement pipes, downpipe-back exhaust systems, turbo-back exhaust systems, race pipes, test pipes and straight pipes.
13. The term “exhaust gas recirculation” or “EGR” means systems which redirect, usually by use of an EGR valve, a portion of engine exhaust back into the engine’s combustion chamber to cool and reduce peak combustion temperatures and pressures, thereby reducing the production of nitrogen oxides (“NOx”). The EGR system may include an EGR cooler to cool the recirculated exhaust to further reduce the combustion temperature.
14. The term “information” includes any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intraoffice communications, electronic mail (“email”), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting, or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, presentations, spreadsheets, and worksheets. The term “information” includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term “information” also includes any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back-up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. Information bearing any notation not part of the original text is considered to be separate information. A draft or non-identical copy is separate information within the meaning of this term.
15. The term “manufacture” includes the creation, design, development, alteration, fabrication, production, or programming of a software code, software, hardware, program, element of design, calibration, engine tune, EM product, engine tuner, device, part, or component.

16. The term "onboard diagnostics" or "OBD" means systems which monitor components' emission-related systems and assists repair technicians in diagnosing and fixing problems with those emission-related systems. If a problem is detected, an OBD system should record a Diagnostic Trouble Code ("DTC"), illuminate a Malfunction Indicator Light ("MIL") or other warning lamp on the vehicle instrument panel, and/or provide information to the ECM which induces Engine Derate due to malfunctioning or missing emission-related systems.
17. The term "person" includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
18. The term "product" includes any software code, software, hardware, program, element of design, calibration, engine tune, EM product, device, part or component.
19. The term "you," "your," and "FFDP" means Full Force Diesel Performance, Inc., and any affiliates, predecessors, successors, assignees, agents, employees, representatives, investigators, accountants, auditors, attorneys, experts, consultants, and contractors. These terms shall also mean any others who are not listed above and are in possession, custody, or control (actual or constructive) of information relevant to this request or information that is otherwise available to Full Force Diesel Performance, Inc., or who may have obtained information for or on behalf of Full Force Diesel Performance, Inc.
20. The term "SCR system" refers to the selective catalytic reduction system, which is an exhaust aftertreatment device designed to reduce NOx emissions by injecting a liquid reagent through a catalyst.
21. The term "service" means any action to change, affect, modify, bypass, render inoperative, remove, download and/or install one or more part(s) or component(s) (*e.g.*, emission control components) or other item(s), including, but not limited to, engine parts, turbochargers, block plates, straight pipes, power packages, computer tuning, calibrations, elements of design, tuners, tunes, software, code, or devices.

All terms not defined in this enclosure have their ordinary meaning, unless such terms are defined in the Clean Air Act and/or its implementing regulations, and in which case the statutory and/or regulatory definitions apply. Words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions. The terms "and" and "or" shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this information request any information which might otherwise be construed to be outside its scope.

ENCLOSURE 3

Confidential Business Information (CBI) Assertion and Substantiation Requirements

A. Assertion Requirements

You may assert a business confidentiality claim covering part or all of the information, other than emissions data and information or data that is otherwise publicly available, as described in 40 C.F.R. § 2.203(b). If no business confidentiality claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice. To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any information over which you make a claim of confidentiality should be marked by placing on or attaching to the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret" or "proprietary" or "business confidential" and a date if any when the information should no longer be treated as confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. Information covered by such a claim will be disclosed by the EPA only to the extent permitted and by means of the procedures set forth by Section 208(c) of the Act, and 40 C.F.R. Part 2, Subpart B.

B. Substantiation Requirements

All confidentiality claims are subject to the EPA verification and must be made in accordance with 40 C.F.R. Part 2, Subpart B. You bear the burden of substantiating your confidentiality claim and must satisfactorily show that disclosure of the information would be likely to cause substantial harm to your business' competitive position; that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; and that the information is not and has not been reasonably obtainable by legitimate means without your consent, among other things. Conclusory allegations will be given little or no weight.

Before the EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, the EPA will send you a letter asking you to substantiate fully your CBI claim by answering 11 questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. You must provide the EPA with a response within the number of days set forth in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

The EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied. Any information not specifically identified as subject to a confidentiality claim may be disclosed without further notice to you. For each item or class of information that you identify as being confidential, the EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in the EPA's determination:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. For each item or category of information claimed as confidential, explain with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
8. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
9. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.
10. If you believe any information to be (a) trade secret (s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret (s).
11. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data).

Please note that emission data provided under Section 208 of the Act, 42 U.S.C. § 7542, is not entitled to confidential treatment under 40 C.F.R. Part 2. "Emission data" means, with reference to any source of emission of any substance into the air - (A) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission

which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing; (B) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and (C) a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

ENCLOSURE 4

Request for Information

Full Force Diesel Performance, Inc., shall submit the following information to the EPA, pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, regarding certain parts or components that you either manufactured (i.e., created, wrote, programmed, fabricated, produced, or modified), offered for sale, sold, or installed since November 1, 2017.

Provide the following information in Enclosure 6, worksheet 1.

1. Identify each EM product FFDP manufactured, sold, offered for sale, or installed during the period from November 1, 2017, through the date of this letter, in Enclosure 6, worksheet 1, and provide the:
 - a. Part Number, Item Code, or other unique identifier used by FFDP;
 - b. Product name;
 - c. Product manufacturer (if different);
 - d. Identify the product's applications by vehicle type, make, model, and year;
 - e. Quantity FFDP sold during the period November 1, 2017, through the date of this Information Request;
 - f. Average FFDP sale price;
 - g. Indicate if you advertised this product and provide the electronic file names of each advertisement (if applicable);
 - h. Identify whether the product affects or changes fuel delivery rate, timing of mixtures, diagnostics, turbo boost, or other engine parameters or calibrations.
 - i. Describe how the product differs from the stock components it replaces or specifically changes the stock configuration. You may provide owner's or installation manuals for a product in lieu of a narrative description if you identify the electronic names of the files.
 - j. Is the product sold with or without the following:
 - i. Tunes;
 - ii. Tunes from the EM product manufacturer;
 - iii. Tunes manufactured by you;
 - iv. Tunes manufactured by you sold without an EM product (i.e. calibration file only);
 - v. If no to i – iv, describe the product in detail.
 - k. If the product includes a tune manufactured by you provide the following:
 - i. The software used to develop the tune;
 - ii. The developer of the software; and
 - iii. A list of compatible EM products.
 - l. Does the product permanently or temporarily change, affect, or bypass a motor vehicle's emission related parts, including but not limited to the:
 - i. EGR;
 - ii. DPF
 - iii. SCR;
 - iv. catalyst;
 - v. OBD; or
 - vi. any sensors, signals, or records related to these systems;

- m. Indicate whether the product modifies, interferes, or overrides the vehicles' OBD system;
 - n. Indicate whether the product replaces or overwrites an ECM;
 - o. Indicate whether, together with the addition, modification, or removal of a motor vehicle's parts, the product has the effect to permanently or temporarily change, affect, bypass, defeat, or render inoperative a motor vehicle emission control device or emission related part; and
 - p. Quantity company installed during the period November 1, 2017, through the date of this Information Request.
2. For each product identified in response to Request 1, indicate in Enclosure 6, worksheet 1 whether:
- a. the product is capable of disabling the EGR without illuminating a MIL or prompting any on-board DTC;
 - b. FFDP has sold a version of the product that, upon installation and without post-sale modification of the product, disables or allows the end user to disable the EGR without illuminating a MIL or prompting any DTC;
 - c. the product is capable of disabling the EGR without any engine derating;
 - d. FFDP has sold a version of the product that, upon installation and without post-sale modification of the product, disables or allows the end user to disable the EGR without any engine derating;
 - e. the product is capable of allowing the removal of the EGR without illuminating a MIL or prompting any on-board DTC;
 - f. FFDP has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the EGR without illuminating a MIL or prompting any DTC;
 - g. the product is capable of allowing the removal of the EGR without any engine derating;
 - h. FFDP has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the EGR without any engine derating;
 - i. the product is capable of allowing removal of a DPF without illuminating a MIL or prompting any DTC;
 - j. FFDP has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the DPF without illuminating a MIL or prompting any DTC;
 - k. the product is capable of allowing removal of a DPF without any engine derating;
 - l. FFDP has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a DPF without any engine derating;
 - m. the product is capable of disabling or allowing removal of a SCR system without illuminating a MIL or prompting any DTC;
 - n. FFDP has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a SCR system without illuminating a MIL or prompting any DTC;
 - o. the product is capable of allowing removal of a SCR system without any engine derating;
 - p. FFDP has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a SCR system without any engine derating;
 - q. the product is capable of allowing removal of a catalyst without illuminating a MIL or prompting any DTC;

- r. FFDP has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a catalyst without illuminating a MIL or prompting any DTC;
 - s. the product is capable of allowing removal of a catalyst without any engine derating;
 - t. FFDP has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a catalyst without any engine derating;
 - u. FFDP has sold a version of the product that, upon installation and without post-sale modification of the product, alters fuel timing maps within engine electronic calibrations;
 - v. the product is capable of bypassing or altering parameters to prevent DTCs or MILs from being recorded or illuminated; and
 - w. FFDP has sold a version of the product that, upon installation and without post-sale modification of the product, prevents DTCs or MILs from being recorded or illuminated.
3. For each product identified in response to Request 1 which FFDP sold during the period November 1, 2017, through the date of this Information Request, provide all sales information using the format provided in Enclosure 6, worksheet 2. FFDP may provide the requested information in an electronic spreadsheet exported from an invoice management program such as QuickBooks in lieu of using Enclosure 6, worksheet 2.
4. Identify each exhaust product manufactured, sold, offered for sale, or installed during the period from November 1, 2017, through the date of this letter, in Enclosure 6, worksheet 3, and provide the:
- a. Part Number, Item Code, or other unique identifier used by FFDP;
 - b. Product name;
 - c. Product manufacturer (if different);
 - d. Identify the product's applications by vehicle type, make, model, and year;
 - e. Quantity FFDP sold during the period November 1, 2017, through the date of this Information Request;
 - f. Average FFDP sale price;
 - g. Indicate if you have advertised this product and provide electronic file names of each advertisement (if applicable);
 - h. Describe how the product differs from the stock components it replaces or specifically changes the stock configuration. You may provide owner's or installation manuals for a product in lieu of a narrative description if you identify the electronic names of the files.
 - i. Does the product permanently or temporarily changes, affects, or bypasses a motor vehicle's emission related parts, including but not limited to the:
 - i. EGR;
 - ii. DPF;
 - iii. SCR;
 - iv. Catalyst;
 - v. OBD; or
 - vi. any sensors, signals, or records related to these systems;
 - j. Indicate whether, together with the addition, modification, or removal of a motor vehicle's parts, the product has the effect to permanently or temporarily change, affect, bypass, defeat, or render inoperative a motor vehicle emission control device or emission related part; and

- k. Quantity FFDP installed during the period November 1, 2017, through the date of this Information Request.
5. For each product identified in response to Request 4 which FFDP sold during the period November 1, 2017, through the date of this Information Request, provide all sales information using the format provided in Enclosure 6, worksheet 4. FFDP may provide the requested information in an electronic spreadsheet exported from an invoice management program such as QuickBooks in lieu of using Enclosure 6, worksheet 4.

Provide the following information in Enclosure 6, worksheet 5.

6. For products identified in response to Requests 1 and 4, state whether FFDP or any other entity conducted tests measuring emissions of hydrocarbons, carbon monoxide, nitrogen oxides, or particulate matter, including tests that measure the impact of the product on motor vehicle emissions or that measure the impact of the product on a vehicle's emission control devices or elements of design. For each such test, provide the following information:
- a. a description of the test, including identification of the product and vehicle, the EPA engine family, name of the vehicle, test equipment, test protocols, and calibration procedures;
 - b. any training or instructional materials used for educating employees and affiliates about how to perform the test; and
 - c. the date and location of the test, the name and position of the person that conducted the test, and the test results.
7. For products that are identified in response to Requests 1 and 4:
- a. State whether FFDP or any other entity submitted an application for an Executive Order to the California Air Resources Board;
 - i. if so, provide a copy of the application for each product.
 - b. State whether each product received an Executive Order exempting the product from California's emission control system anti-tampering law, California Vehicle Code § 27156.
 - c. If the product received an Executive Order, provide the Executive Order number; and
 - d. If the product received an Executive Order, state whether the California Air Resources Board required changes to the product or application to receive approval.

Provide the following information.

8. Provide a complete, unedited copy of every estimate, work order, invoice and final bill for each vehicle serviced by FFDP between November 1, 2017, and the date of this request, including copies of all attachments.
9. For each product identified in response to Requests 1 and 4:
- a. provide a detailed written description of all methods by which the product has been promoted or publicized by FFDP, including but not limited to, print media, commercial websites, point-of-sale webpages, event promotion or sponsorship, trade show promotion, or social media promotion, including promotion dates and/or date ranges, if applicable;
 - b. provide copies of all advertisements for the product published in print or electronic

- media, including commercial websites, point-of-sale webpages, or social media;
 - c. provide a list of other entities known to have advertised the product; and
 - d. provide all manuals available (e.g., owner's and installation).
10. Provide a detailed, written description of FFDP's business structure including ownership, corporate form, parent, sister and/or subsidiary companies, and affiliated organizations.
 11. Provide the location of all warehouses or storage facilities where FFDP stores products.
 12. Provide the name, address, telephone number, uniform resource locator (URL) and email address for any manufacturer, wholesaler, dealer, or retailer from whom FFDP has purchased engine management products, exhaust products, and/or tunes between November 1, 2017, and the date of this request.
 13. Provide the name and URL of all internet websites, stores (including Amazon and eBay stores) and/or platforms where FFDP has sold or offered to sell engine management products, exhaust products, and/or tunes between November 1, 2017, and the date of this request.

ENCLOSURE 5

STATEMENT OF CERTIFICATION

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001, 1341 and 1505.

(Signature)

(Printed Name)

(Title)

(Date)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

NOV 8 2019

UNITED PARCEL SERVICE
EMAIL VERIFICATION REQUESTED

Full Throttle Performance, LLC
Justin Shaw, Owner
1019 Finch Ave
High Point, North Carolina 27263

Dear Mr. Shaw:

Pursuant to Section 208(a) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7542(a), you are hereby required to provide the U.S. Environmental Protection Agency with information relating to Full Throttle Performance, LLC's (FTP) business. The EPA is seeking this information to determine whether FTP is in compliance with requirements of Sections 203(a) and 213(d) of the Act, 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable motor vehicle regulations at 40 C.F.R. Parts 85, 86, and 1068.

The EPA issues this Request for Information under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA, Title II, Part A – Motor Vehicle Emission and Fuel Standards, Sections 202 – 219, 42 U.S.C. §§ 7521-7554, to perform tests and provide information necessary to determine whether the person is acting or has acted in compliance with the CAA and the regulations promulgated thereunder. The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, Region 4.

Please review the following enclosures and complete as appropriate: Instructions (Enclosure 1), Definitions (Enclosure 2), Claiming Confidentiality (Enclosure 3), Request for Information (Enclosure 4), Statement of Certification (Enclosure 5), and Response Excel Template (Enclosure 6).

Please submit the requested information to the EPA per the instructions contained in Enclosure 1. Your responses are required to be submitted **no later than thirty (30) calendar days** after FTP's receipt of this letter as determined by the date of the Email Verification, unless the EPA, for good cause shown, extends in writing the deadline for responding to the request. This information must be submitted to the following individual:

Todd Groendyke
Air Enforcement Branch
U.S. EPA, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Failure to provide the information required by this letter is a violation of the Act and may result in one or more of the following actions: (1) commencement of a civil action seeking compliance with this request pursuant to Section 204 of the Act, 42 U.S.C. § 7523; (2) issuance of an administrative penalty order pursuant to Section 205(c) of the Act, 42 U.S.C. § 7424(c); (3) commencement of a civil action in accordance with Section 205(b) of the Act, 42 U.S.C. § 7524(b); and/or (4) any other action authorized under the Act.

Under Section 208(c) of the Act, 42 U.S.C. § 7542(c), and pursuant to the regulations found at 40 C.F.R. Part 2, Subpart B, including 40 C.F.R. § 2.301, you are entitled to assert a claim of business confidentiality for any information you provide to the EPA which you regard as confidential business information (CBI). For such information, you may request that the EPA treat such information as confidential. Any such claim of confidentiality must conform to the requirements of 40 C.F.R. § 2.203(b). Note that "emission data," as defined by 40 C.F.R. § 2.301(a)(2), cannot be claimed as confidential under Section 208(c) of the Act, 42 U.S.C. § 7542(c). For detailed instructions for claiming confidentiality, please see Enclosure 3. Information you supply under a claim of confidentiality will be treated in accordance with 40 C.F.R. Part 2, Subpart B, and will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to FTP. Please note that any confidentiality claim does not obviate the need to send that portion of the response to the EPA.

The response to the information requested must be accompanied by Enclosure 5, Statement of Certification, which is to be signed and dated by a responsible official of FTP. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this request that are known to you, following a complete and thorough review of all information and sources available to you.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 – 3520, because it seeks information from specific individuals or entities as part of an investigation.

If you have any questions regarding this matter, please contact Todd Groendyke at (404) 562-8262 or by electronic mail at groendyke.todd@epa.gov.

Sincerely,



Carol L. Kemker
Director
Enforcement and Compliance Assurance Division

Enclosures

ENCLOSURE 1

Instructions

1. Provide a complete, detailed response, in English, to each Request in Enclosure 4.
2. Provide a separate response to each and every question, and each and every subpart of a question.
3. Please provide your response to all questions of this Information Request in electronic form on a disk (CD or DVD media), flash drive, hard drive, or similar digital data storage device. All responsive documents and materials (e.g., copies of print media, audio, and visual material) must be provided as an accurate and legible copy in searchable format, number stamped in sequential order (e.g., BATES stamped).
4. Please provide your responses to Requests 1 through 7 in an unlocked, electronic spreadsheet format. For your convenience, the EPA has provided Enclosure 6 which consists of an Excel template in which you are requested to organize your responses to Requests 1 through 7. If Excel format is not available, then the format should allow for data to be imported and used in calculations by a standard spreadsheet program such as Excel. You may enter your responses directly onto the provided disk or utilize your preferred form of electronic media as described in Instruction 3 above.
5. Identify each person whom you relied on or consulted with in preparing your responses to each question of this information request. Provide their name, title, job duties and duration of employment with the company. If they are not an employee of the company, identify their employer and provide their name, title, job duties and duration of employment with their employer.
6. Where a Request allows or requires documents to be provided in response, provide all documents electronically in a file folder specific to that question or subpart and labeled accordingly.
7. When a response is provided in the form of a number, specify the units of measure.
8. Where documents or information necessary for a response is not in your possession, custody, or control, indicate in your response why such documents or information are not available or in your possession, custody, or control, and identify any source that either possesses or is likely to possess such information.
9. If you assert any objections in responding to this Information Request, each objection must state with specificity the grounds for objecting to the request, including the reasons, and must state whether any responsive materials are being withheld on the basis of that objection.
10. You must promptly supplement your response to any Request in Enclosure 4 in the event you learn that you possess responsive information not yet produced or if you gain possession, custody, or control of responsive information after responding to this Information Request.

ENCLOSURE 2

Definitions

1. The term “affiliated organization” or “affiliate” means any organization or entity associated with Full Throttle Performance, LLC as an agent, parent organization, predecessor corporation, sister company, subsidiary organization, or any organization or entity acting in lieu of you.
2. The term “applications” means all vehicle or engine configurations.
3. The term “catalysts” means systems or devices which increase the rate of a chemical reaction but are not one of the original reactants or final products, *i.e.*, the catalyst is not consumed or altered in the reaction. The term “catalysts” includes emission control catalysts such as diesel oxidation catalysts (“DOCs”), NO_x adsorber catalysts (“NACs”), and three-way catalysts (“TWCs”).
4. The term “derate” or “derating” means an electronic control module mode that reduces the engine power or vehicle speed after the OBD system identifies a problem with the emission control equipment.
5. The term “DPF” refers to diesel particulate filters, which are exhaust aftertreatment devices that typically use a porous ceramic or cordierite substrate or metallic filter to physically trap particulate matter (“PM”) and remove it from the exhaust stream.
6. The term “element of design” means any control system (e.g., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine, as defined in 40 C.F.R. §§ 86.094-2 and 86.1803-01.
7. The term “electronic control module” or “ECM” means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. The ECM uses software programming including calculations and tables of information to provide the appropriate outputs. Multiple electronic control modules may be incorporated in a single unit to control various engine, vehicle, or equipment functions. ECM can be a generic term but may refer specifically to the engine control module when discussing emission controls on vehicles and engines. Examples of electronic control modules include, but are not limited to, the Engine Control Module, OBD Control Modules, Powertrain Control Module (“PCM”), Transmission Control Module (“TCM”), Body Control Module (“BCM”) and aftertreatment control module.
8. The term “EM product” means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information stored within or used by an ECM. EM products include, but are not limited to, programmers, modules, tuners, ECM calibration tools, replacement ECMs, flash tools, or engine management products.
9. The term “emission related parts” means those parts installed for the specific purpose of controlling emissions, or those components, systems, or elements of design which must function properly to

assure continued vehicle emission compliance, as defined in 40 C.F.R. § 85.2102.

10. The term “engine tune,” “tune,” or “calibration” means any combination of software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information, stored in any form, capable of affecting or controlling an ECM.
11. The term “entity” means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization or association.
12. The term “exhaust product” means exhaust components designed for use downstream from the exhaust port of a motor vehicle engine, and include, but are not limited to turbochargers, EGR block plates, EGR delete kits, EGR reroute kits, exhaust replacement pipes, downpipe-back exhaust systems, turbo-back exhaust systems, race pipes, test pipes and straight pipes.
13. The term “exhaust gas recirculation” or “EGR” means systems which redirect, usually by use of an EGR valve, a portion of engine exhaust back into the engine’s combustion chamber to cool and reduce peak combustion temperatures and pressures, thereby reducing the production of nitrogen oxides (“NOx”). The EGR system may include an EGR cooler to cool the recirculated exhaust to further reduce the combustion temperature.
14. The term “information” includes any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intraoffice communications, electronic mail (“email”), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting, or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, presentations, spreadsheets, and worksheets. The term “information” includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term “information” also includes any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back-up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. Information bearing any notation not part of the original text is considered to be separate information. A draft or non-identical copy is separate information within the meaning of this term.
15. The term “manufacture” includes the creation, design, development, alteration, fabrication, production, or programming of a software code, software, hardware, program, element of design,

calibration, engine tune, EM product, engine tuner, device, part, or component.

16. The term “onboard diagnostics” or “OBD” means systems which monitor components’ emission-related systems and assists repair technicians in diagnosing and fixing problems with those emission-related systems. If a problem is detected, an OBD system should record a Diagnostic Trouble Code (“DTC”), illuminate a Malfunction Indicator Light (“MIL”) or other warning lamp on the vehicle instrument panel, and/or provide information to the ECM which induces Engine Derate due to malfunctioning or missing emission-related systems.
17. The term “person” includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
18. The term “product” includes any software code, software, hardware, program, element of design, calibration, engine tune, EM product, device, part or component.
19. The term “you,” “your,” and “FTP” means Full Throttle Performance, LLC and any affiliates, predecessors, successors, assignees, agents, employees, representatives, investigators, accountants, auditors, attorneys, experts, consultants, and contractors. These terms shall also mean any others who are not listed above and are in possession, custody, or control (actual or constructive) of information relevant to this request or information that is otherwise available to Full Throttle Performance, LLC, or who may have obtained information for or on behalf of Full Throttle Performance, LLC.
20. The term “SCR system” refers to the selective catalytic reduction system, which is an exhaust aftertreatment device designed to reduce NOx emissions by injecting a liquid reagent through a catalyst.
21. The term “service” means any action to change, affect, modify, bypass, render inoperative, remove, download and/or install one or more part(s) or component(s) (e.g., emission control components) or other item(s), including, but not limited to, engine parts, block plates, straight pipes, power packages, computer tuning, calibrations, elements of design, tuners, tunes, software, code, or devices.

All terms not defined in this enclosure have their ordinary meaning, unless such terms are defined in the Clean Air Act and/or its implementing regulations, and in which case the statutory and/or regulatory definitions apply. Words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions. The terms “and” and “or” shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this information request any information which might otherwise be construed to be outside its scope.

ENCLOSURE 3

Confidential Business Information (CBI) Assertion and Substantiation Requirements

A. Assertion Requirements

You may assert a business confidentiality claim covering part or all of the information, other than emissions data and information or data that is otherwise publicly available, as described in 40 C.F.R. § 2.203(b). If no business confidentiality claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice. To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any information over which you make a claim of confidentiality should be marked by placing on or attaching to the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret" or "proprietary" or "business confidential" and a date if any when the information should no longer be treated as confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. Information covered by such a claim will be disclosed by the EPA only to the extent permitted and by means of the procedures set forth by Section 208(c) of the Act, and 40 C.F.R. Part 2, Subpart B.

B. Substantiation Requirements

All confidentiality claims are subject to the EPA verification and must be made in accordance with 40 C.F.R. Part 2, Subpart B. You bear the burden of substantiating your confidentiality claim and must satisfactorily show that disclosure of the information would be likely to cause substantial harm to your business' competitive position; that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; and that the information is not and has not been reasonably obtainable by legitimate means without your consent, among other things. Conclusory allegations will be given little or no weight.

Before the EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, the EPA will send you a letter asking you to substantiate fully your CBI claim by answering 11 questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. You must provide the EPA with a response within the number of days set forth in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

The EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied. Any information not specifically identified as subject to a confidentiality claim may be disclosed without further notice to you. For each item or class of information that you identify as being confidential, the

EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in the EPA's determination:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. For each item or category of information claimed as confidential, explain with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
8. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
9. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.
10. If you believe any information to be (a) trade secret (s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret (s).
11. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data).

Please note that emission data provided under Section 208 of the Act, 42 U.S.C. § 7542, is not entitled to confidential treatment under 40 C.F.R. Part 2. "Emission data" means, with reference to any source of emission of any substance into the air - (A) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing; (B) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and (C) a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

ENCLOSURE 4

Request for Information

Full Throttle Performance, LLC shall submit the following information to the EPA, pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, regarding certain parts or components that you either manufactured (i.e., created, wrote, programmed, fabricated, produced, or modified), offered for sale, sold, or installed since October 1, 2018.

Provide the following information in Enclosure 6, worksheet 1.

1. Identify each EM product FTP manufactured, sold, offered for sale, or installed during the period from October 1, 2018, through the date of this letter, in Enclosure 6, worksheet 1, and provide the:
 - a. Part Number, Item Code, or other unique identifier used by FTP;
 - b. Product name;
 - c. Product manufacturer (if different);
 - d. Identify the product's applications by vehicle type, make, model, and year;
 - e. Quantity FTP sold during the period October 1, 2018, through the date of this Information Request;
 - f. Average FTP sale price;
 - g. Indicate if you advertised this product and provide the electronic file names of each advertisement (if applicable);
 - h. Identify whether the product affects or changes fuel delivery rate, timing of mixtures, diagnostics, turbo boost, or other engine parameters or calibrations.
 - i. Describe how the product differs from the stock components it replaces or specifically changes the stock configuration. You may provide owner's or installation manuals for a product in lieu of a narrative description if you identify the electronic names of the files.
 - j. Is the product sold with or without the following:
 - i. Tunes;
 - ii. Tunes from the EM product manufacturer;
 - iii. Tunes manufactured by you;
 - iv. Tunes manufactured by you sold without an EM product (i.e. calibration file only);
 - v. If no to i – iv, describe the product in detail.
 - k. If the product includes a tune manufactured by you provide the following:
 - i. The software used to develop the tune;
 - ii. The developer of the software; and
 - iii. A list of compatible EM products.
 - l. Does the product permanently or temporarily change, affect, or bypass a motor vehicle's emission related parts, including but not limited to the:
 - i. EGR;
 - ii. DPF
 - iii. SCR;
 - iv. catalyst;
 - v. OBD; or

- vi. any sensors, signals, or records related to these systems;
 - m. Indicate whether the product modifies, interferes, or overrides the vehicles' OBD system;
 - n. Indicate whether the product replaces or overwrites an ECM;
 - o. Indicate whether, together with the addition, modification, or removal of a motor vehicle's parts, the product has the effect to permanently or temporarily change, affect, bypass, defeat, or render inoperative a motor vehicle emission control device or emission related part; and
 - p. Quantity company installed during the period October 1, 2018, through the date of this Information Request.
2. For each product identified in response to Request 1, indicate in Enclosure 6, worksheet 1 whether:
- a. the product is capable of disabling the EGR without illuminating a MIL or prompting any on-board DTC;
 - b. FTP has sold a version of the product that, upon installation and without post-sale modification of the product, disables or allows the end user to disable the EGR without illuminating a MIL or prompting any DTC;
 - c. the product is capable of disabling the EGR without any engine derating;
 - d. FTP has sold a version of the product that, upon installation and without post-sale modification of the product, disables or allows the end user to disable the EGR without any engine derating;
 - e. the product is capable of allowing the removal of the EGR without illuminating a MIL or prompting any on-board DTC;
 - f. FTP has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the EGR without illuminating a MIL or prompting any DTC;
 - g. the product is capable of allowing the removal of the EGR without any engine derating;
 - h. FTP has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the EGR without any engine derating;
 - i. the product is capable of allowing removal of a DPF without illuminating a MIL or prompting any DTC;
 - j. FTP has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the DPF without illuminating a MIL or prompting any DTC;
 - k. the product is capable of allowing removal of a DPF without any engine derating;
 - l. FTP has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a DPF without any engine derating;
 - m. the product is capable of disabling or allowing removal of a SCR system without illuminating a MIL or prompting any DTC;
 - n. FTP has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a SCR system without illuminating a MIL or prompting any DTC;
 - o. the product is capable of allowing removal of a SCR system without any engine derating;
 - p. FTP has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a SCR system without any engine derating;

- q. the product is capable of allowing removal of a catalyst without illuminating a MIL or prompting any DTC;
 - r. FTP has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a catalyst without illuminating a MIL or prompting any DTC;
 - s. the product is capable of allowing removal of a catalyst without any engine derating;
 - t. FTP has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a catalyst without any engine derating;
 - u. FTP has sold a version of the product that, upon installation and without post-sale modification of the product, alters fuel timing maps within engine electronic calibrations;
 - v. the product is capable of bypassing or altering parameters to prevent DTCs or MILs from being recorded or illuminated; and
 - w. FTP has sold a version of the product that, upon installation and without post-sale modification of the product, prevents DTCs or MILs from being recorded or illuminated.
3. For each product identified in response to Request 1 which FTP sold during the period October 1, 2018, through the date of this Information Request, provide all sales information using the format provided in Enclosure 6, worksheet 2. FTP may provide the requested information in an electronic spreadsheet exported from an invoice management program such as QuickBooks in lieu of using Enclosure 6, worksheet 2.
4. Identify each exhaust product manufactured, sold, offered for sale, or installed during the period from October 1, 2018, through the date of this letter, in Enclosure 6, worksheet 3, and provide the:
- a. Part Number, Item Code, or other unique identifier used by FTP;
 - b. Product name;
 - c. Product manufacturer (if different);
 - d. Identify the product's applications by vehicle type, make, model, and year;
 - e. Quantity FTP sold during the period October 1, 2018, through the date of this Information Request;
 - f. Average FTP sale price;
 - g. Indicate if you have advertised this product and provide electronic file names of each advertisement (if applicable);
 - h. Describe how the product differs from the stock components it replaces or specifically changes the stock configuration. You may provide owner's or installation manuals for a product in lieu of a narrative description if you identify the electronic names of the files.
 - i. Does the product permanently or temporarily changes, affects, or bypasses a motor vehicle's emission related parts, including but not limited to the:
 - i. EGR;
 - ii. DPF;
 - iii. SCR;
 - iv. Catalyst;
 - v. OBD; or
 - vi. any sensors, signals, or records related to these systems;
 - j. Indicate whether, together with the addition, modification, or removal of a motor vehicle's parts, the product has the effect to permanently or temporarily change, affect,

bypass, defeat, or render inoperative a motor vehicle emission control device or emission related part; and

- k. Quantity FTP installed during the period October 1, 2018, through the date of this Information Request.

- 5. For each product identified in response to Request 4 which FTP sold during the period October 1, 2018, through the date of this Information Request, provide all sales information using the format provided in Enclosure 6, worksheet 4. FTP may provide the requested information in an electronic spreadsheet exported from an invoice management program such as QuickBooks in lieu of using Enclosure 6, worksheet 4.

Provide the following information in Enclosure 6, worksheet 5.

- 6. For products identified in response to Requests 1 and 4, state whether FTP or any other entity conducted tests measuring emissions of hydrocarbons, carbon monoxide, nitrogen oxides, or particulate matter, including tests that measure the impact of the product on motor vehicle emissions or that measure the impact of the product on a vehicle's emission control devices or elements of design. For each such test, provide the following information:
 - a. a description of the test, including identification of the product and vehicle, the EPA engine family, name of the vehicle, test equipment, test protocols, and calibration procedures;
 - b. any training or instructional materials used for educating employees and affiliates about how to perform the test; and
 - c. the date and location of the test, the name and position of the person that conducted the test, and the test results.
- 7. For products that are identified in response to Requests 1 and 4:
 - a. State whether FTP or any other entity submitted an application for an Executive Order to the California Air Resources Board;
 - i. if so, provide a copy of the application for each product.
 - b. State whether each product received an Executive Order exempting the product from California's emission control system anti-tampering law, California Vehicle Code § 27156.
 - c. If the product received an Executive Order, provide the Executive Order number; and
 - d. If the product received an Executive Order, state whether the California Air Resources Board required changes to the product or application to receive approval.

Provide the following information.

- 8. Provide a complete, unedited copy of every estimate, work order, invoice and final bill for each vehicle serviced by FTP between October 1, 2018, and the date of this request, including copies of all attachments.
- 9. For each product identified in response to Requests 1 and 4:
 - a. provide a detailed written description of all methods by which the product has been promoted or publicized by FTP, including but not limited to, print media, commercial

- websites, point-of-sale webpages, event promotion or sponsorship, trade show promotion, or social media promotion, including promotion dates and/or date ranges, if applicable;
 - b. provide copies of all advertisements for the product published in print or electronic media, including commercial websites, point-of-sale webpages, or social media;
 - c. provide a list of other entities known to have advertised the product; and
 - d. provide all manuals available (e.g., owner's and installation).
10. Provide a detailed, written description of FTP's business structure including ownership, corporate form, parent, sister and/or subsidiary companies, and affiliated organizations.
11. Provide the location of all warehouses or storage facilities where FTP stores products.

ENCLOSURE 5

STATEMENT OF CERTIFICATION

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001, 1341 and 1505.

(Signature)

(Printed Name)

(Title)

(Date)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

OCT 1 2019

UNITED PARCEL SERVICE
EMAIL VERIFICATION REQUESTED

Mr. Adony Golan
Registered Agent
Gexhaust LLC
4641 South State Road 7
Davie, Florida 33314

Dear Mr. Golan:

Pursuant to Section 208(a) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7542(a), you are hereby required to provide the U.S. Environmental Protection Agency with information relating to Gexhaust LLC's business. The EPA is seeking this information to determine whether Gexhaust LLC is in compliance with requirements of Sections 203(a) and 213(d) of the Act, 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable motor vehicle regulations at 40 C.F.R. Parts 85, 86, and 1068.

The EPA issues this Request for Information under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA, Title II, Part A – Motor Vehicle Emission and Fuel Standards, Sections 202 – 219, 42 U.S.C. §§ 7521-7554, to perform tests and provide information necessary to determine whether the person is acting or has acted in compliance with the CAA and the regulations promulgated thereunder. The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, Region 4.

Please review the following enclosures and complete as appropriate: Instructions (Enclosure 1), Definitions (Enclosure 2), Claiming Confidentiality (Enclosure 3), Request for Information (Enclosure 4), and Statement of Certification (Enclosure 5).

Please submit the requested information to the EPA per the instructions contained in Enclosure 1. Your responses are required to be submitted **no later than thirty (30) calendar** days after Gexhaust LLC's receipt of this letter as determined by the date of the Email Verification, unless EPA, for good cause shown, extends in writing the deadline for responding to the request. This information must be submitted to the following individual:

Sharron Porter
ECAD/AEB
U.S. EPA Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Internet Address (URL) • <http://www.epa.gov>

Failure to provide the information required by this letter is a violation of the Act and may result in one or more of the following actions: (1) commencement of a civil action seeking compliance with this request pursuant to Section 204 of the Act, 42 U.S.C. § 7523; (2) issuance of an administrative penalty order pursuant to Section 205(c) of the Act, 42 U.S.C. § 7424(c); (3) commencement of a civil action in accordance with Section 205(b) of the Act, 42 U.S.C. § 7524(b); and/or (4) any other action authorized under the Act.

Under Section 208(c) of the Act, 42 U.S.C. § 7542(c), and pursuant to the regulations found at 40 C.F.R. Part 2, Subpart B, including 40 C.F.R. § 2.301, you are entitled to assert a claim of business confidentiality for any information you provide to the EPA which you regard as confidential business information (CBI). Any such claim of confidentiality must conform to the requirements of 40 C.F.R. § 2.203(b). Note that "emission data," as defined by 40 C.F.R. § 2.301(a)(2), cannot be claimed as confidential under Section 208(c) of the Act, 42 U.S.C. § 7542(c). For detailed instructions for claiming confidentiality, please see Enclosure 3. Information you supply under a claim of confidentiality will be treated in accordance with 40 C.F.R. Part 2, Subpart B, and will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to Gexhaust LLC. Please note that any confidentiality claim does not obviate the need to send that portion of the response to the EPA.

The response to the information requested must be accompanied by Enclosure 5, Statement of Certification, which is to be signed and dated by a responsible official of Gexhaust LLC. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this request that are known to you, following a complete and thorough review of all information and sources available to you.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 – 3520, because it seeks information from specific individuals or entities as part of an investigation.

If you have any questions regarding this matter, please contact Sharron Porter at (404) 562-9172.

Sincerely,



Suzanne G. Rubini
Acting Director
Enforcement and Compliance Assurance Division

Enclosures

ENCLOSURE 1

Instructions

Each of the following instructions applies to each and every question contained in Enclosure 4.

1. If the company has no responsive information or documents pertaining to a particular question, submit an affirmative statement and explanation.
2. If your response to a particular question requires a scanned or hardcopy document, you must identify the filename or document title. Make sure to correlate any hardcopy or scanned documents to a specific question. If a document is responsive to more than one question, this must be so indicated and only one copy of the document needs to be provided.
3. Identify each person whom you relied on or consulted with in preparing your responses to each question of this information request. Provide their name, title, job duties and duration of employment with the company. If they are not an employee of the company, identify their employer and provide their name, title, job duties and duration of employment with their employer.
4. Identify each document consulted, examined, or referred to in the preparation of your response or that contains information responsive to the question, and provide a true and correct copy of each such document if not provided in response to another specific question. Indicate on each document produced in response to this information request the number of the question to which it corresponds.
5. If requested information or documents are not known or are not available to you at the time of your response to this information request, but later become known or available to you, you must supplement your response to the EPA within 30 calendar days of discovery of the responsive information. Moreover, should you find at any time after submission of your response that any portion is or becomes false, incomplete or misrepresents the facts, you must provide the EPA with a corrected response as soon as possible.
6. Provide a separate response to each and every question, and each and every subpart of a question.
7. The company may choose to either submit documents in .pdf format or submit documents as hard copy documents. However, electronic submissions are preferred to aid in our electronic recordkeeping efforts. We request that you provide all documents responsive to this information request in an electronic format according to paragraphs a. through f., below. These submissions are in lieu of hard copy.

Electronic Submissions

- a. Provide all responsive documents in searchable Portable Document Format (PDF) or similar format, unless otherwise requested in specific questions. Submitters providing secured PDFs should also provide unsecured versions for EPA use in repurposing text. Do not create separate PDF files for each page of a single document.

- b. When specific questions request data in electronic spreadsheet form, provide the data and corresponding information in editable Excel format, and not in image format. If Excel format is not available, then the format should allow for data to be used in calculations by a standard spreadsheet program such as Excel.
- c. Provide submission on physical media such as compact disk, flash drive or other similar item.
- d. Provide a table of contents for each compact disk or flash drive containing electronic documents submitted in response to our request so that each document can be accurately identified in relation to your response to a specific question. We recommend the use of electronic file folders organized by question number. In addition, each compact disk or flash drive should be labeled appropriately (e.g., Company Name, Disk 1 of 4 for Information Request Response, Date of Response).
- e. Documents claimed as confidential business information (CBI) must be submitted on separate disks/drives apart from the non-confidential information. This will facilitate appropriate records management and appropriate handling and protection of the CBI. Please follow the instructions in Appendix C for designating information as CBI.
- f. Certify that the attached files have been scanned for viruses and indicate what program was used.

ENCLOSURE 2

Definitions

1. The term “**affiliate**” means any organization or entity associated with Gexhaust LLC as an agent, parent organization, predecessor corporation, sister company, subsidiary organization, or any organization or entity acting in lieu of you.
2. The term “**catalysts**” refers to systems, such as catalytic converters, that contain parts or chemical elements which increase the rate of a chemical reaction but are not one of the original reactants or final products, i.e., are not consumed or altered in the reaction. Catalysts consist of a flow-through structure that is coated with an active metal catalyst and surrounded by a stainless-steel housing.
3. The term “**derate**” or “**derating**” means an electronic control module mode that reduces the engine power or vehicle speed after the On-Board Diagnostic system identifies a problem with the emission control equipment.
4. The term “**diesel particulate filter**” or “**DPF**” refers to an exhaust after-treatment emission control component that physically traps particulate matter (PM) and removes it from the exhaust stream, typically using a porous ceramic or cordierite substrate or metallic filter.
5. The terms “**document**” and “**writing**” and the plural forms thereof shall mean all written, recorded or graphic matters, however produced or reproduced, of every kind and description, pertaining in any way to the subject matter of this request, and which are in the company’s possession, custody or control or to which the company has or has had access. The terms “document” and “writing” shall include, but are not limited to: any receipts; invoices; shipping records; purchase orders; purchase records; books; pamphlets; periodicals; memoranda (including those of telephone or oral conversations); contracts; correspondence; agreements; applications; financial records; security instruments; disbursements; checks; bank statements; time records; accounting or financial records; notes; diaries; logs; facsimiles (faxes); telegrams or cables prepared, drafted, received or sent; electronic mail (email), whether drafted, received or sent; tapes; transcripts; recordings; minutes and notes of meetings; directives; work papers; charts; drawings; prints; flow sheets; photographs; infrared camera recordings; film; computer printouts; x-ray photographs; advertisements; catalogs; data; sampling reports, plans, protocols, reports, analyses; or any handwritten, recorded, transcribed punched, taped, filmed or graphic matter, however produced or reproduced.
6. The term “**electronic control module**” or “**ECM**” means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. ECM programming relies on calculations and tables of information to provide appropriate outputs. ECM can be a generic term but may refer specifically to the engine control module when discussing emission controls on vehicles and engines. ECMs may be incorporated separately with multiple units or may be combined into a single unit.
7. The term “**element of design**” means any control system (e.g., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine, as defined in 40 C.F.R. § 86.094-2.

8. The term “**emission related parts**” means those parts installed for the specific purpose of controlling emissions or those components, systems, or elements of design which must function properly to assure continued vehicle emission compliance.
9. The term “**entity**” means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization, or association.
10. The term “**exhaust gas recirculation**” or “**EGR**” refers to an emission control component that directs a portion of engine exhaust back into the engine’s combustion chamber in order to control combustion temperatures and pressures, thereby reducing the production of nitrogen oxides (NO_x). The EGR system may include a cooler, which cools the recirculated exhaust.
11. The term “**onboard diagnostics**” or “**OBD**” refers to an ECM that monitors emission control and emission-related components and systems along with certain engine components, such as the fuel delivery system and the engine control module. When the OBD detects a malfunction or deterioration that could affect emissions, it illuminates a malfunction indicator light (MIL) and produces diagnostic trouble codes (DTC) to aid in repair.
12. The term “**part or component**” includes any part or component intended for use with, or as part of, a motor vehicle or motor vehicle engine (*e.g.*, ECM, element of design, calibration map, tuner, or software that is installed on or designed for use in such vehicles or engines).
13. The terms “**person**” and/or “**persons**” shall have the meaning set forth in Section 302(e) of the Act, 42 U.S.C. § 7602(e), and includes an individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency, department, or instrumentality of the United States and any officer, agent or employee thereof.
14. The term “**product**” or “**products**” shall mean any service, part or component, or other item(s), including, but not limited to, engine parts, block plates, straight pipes, power packages, computer tuning, calibrations, elements of design, tuners, tunes, software coding, or devices, that are manufactured (*i.e.*, created, written, programmed, fabricated, produced, assembled or modified), purchased, imported, distributed, downloaded, offered for sale, sold, provided, and/or installed.
15. The terms “**relate to**” and/or “**pertain to**” (or any form thereof) shall mean constituting, reflecting, representing, supporting, contradicting, referring to, stating, describing, recording, noting, embodying, containing, mentioning, studying, analyzing, discussing, evaluating or relevant to.
16. The term “**selective catalytic reduction**” or “**SCR**” refers to an emission control component that includes systems (the diesel exhaust fluid (DEF) tank, urea quality sensor, DEF injection system, SCR catalyst(s), and other associated sensors), which inject a reductant, such as DEF, into the exhaust stream where it reacts with catalysts to convert NO_x emissions to nitrogen gas (N₂) and water (H₂O).
17. The term “**service**” means any action to change, affect, modify, bypass, render inoperative, remove, download and/or install one or more part(s) or component(s) (*e.g.*, emission control components) or other item(s), including, but not limited to, engine parts, block plates, straight pipes, power

packages, computer tuning, calibrations, elements of design, tuners, tunes, software, code, or devices.

18. The term “**tuner**” means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (*e.g.*, fuel timing maps), code, or other content stored within or used by an ECM. Also known as a programmer, engine performance tuner, chips, or gauge tuner.
19. The term “**tune**” or “**tunes**” means any software loaded onto a tuner which can alter any aspect of vehicle performance governed by the onboard diagnostic system. For example, a tune can program the OBD to ignore the removal of emission-control devices, change engine timing or fuel management, or change the turbo pressure.
20. The terms “**you**” and/or “**your**” shall mean Gexhaust LLC (GE or Company), and all its agents, employees, representatives, investigators, accountants, auditors, attorneys, experts, consultants, and contractors. These terms shall also mean any others who are not listed above and are in possession, custody, or control (actual or constructive) of information relevant to this request or information that is otherwise available to Gexhaust LLC, or who may have obtained information for or on behalf of Gexhaust LLC.

All terms not defined in this enclosure have their ordinary meaning, unless such terms are defined in the Clean Air Act and/or its implementing regulations, and in which case the statutory and/or regulatory definitions apply. Words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions. The terms “and” and “or” shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this information request any information which might otherwise be construed to be outside its scope.

ENCLOSURE 3

Confidential Business Information (CBI) Assertion and Substantiation Requirements

A. Assertion Requirements

You may assert a business confidentiality claim covering part or all of the information, other than emissions data and information or data that is otherwise publicly available, as described in 40 C.F.R. § 2.203(b). If no business confidentiality claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice. To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any information over which you make a claim of confidentiality should be marked by placing on or attaching to the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret” or “proprietary” or “business confidential” and a date if any when the information should no longer be treated as confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. Information covered by such a claim will be disclosed by the EPA only to the extent permitted and by means of the procedures set forth by Section 208(c) of the Act, and 40 C.F.R. Part 2, Subpart B.

B. Substantiation Requirements

All confidentiality claims are subject to the EPA verification and must be made in accordance with 40 C.F.R. Part 2, Subpart B. You bear the burden of substantiating your confidentiality claim and must satisfactorily show that disclosure of the information would be likely to cause substantial harm to your business’ competitive position; that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; and that the information is not and has not been reasonably obtainable by legitimate means without your consent, among other things. Conclusory allegations will be given little or no weight.

Before the EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, the EPA will send you a letter asking you to substantiate fully your CBI claim by answering 11 questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. You must provide the EPA with a response within the number of days set forth in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

The EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied. Any information not specifically identified as subject to a confidentiality claim may be disclosed without further notice to you. For each item or class of information that you identify as being confidential, the EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in the EPA’s determination:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. For each item or category of information claimed as confidential, explain with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
8. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
9. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.
10. If you believe any information to be (a) trade secret (s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret (s).
11. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data).

Please note that emission data provided under Section 208 of the Act, 42 U.S.C. § 7542, is not entitled to confidential treatment under 40 C.F.R. Part 2. "Emission data" means, with reference to any source of emission of any substance into the air - (A) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission

which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing; (B) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and (C) a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

ENCLOSURE 4

Request for Information

Gexhaust LLC shall submit the following information to the EPA, pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, regarding certain parts or components that you either offered for sale, sold, or installed since July 1, 2018.

1. In an **electronic, unlocked spreadsheet**, identify each part or component offered for sale, sold, or installed by Gexhaust LLC including, but not limited to, engine parts, power packages, computer tuning, calibration, element of design, tuner, tunes, software coding, or device, which:
 - a. Changes, affects, modifies, bypasses, or allows for the deletion or partial deletion of a vehicle's emission related parts including, but not limited to, the following systems:
 - i. diesel particulate filter system ("DPF");
 - ii. exhaust gas recirculation system ("EGR");
 - iii. catalytic converter system ("catalyst");
 - iv. on-board diagnostic system ("OBD");
 - v. selective catalytic reduction system ("SCR"); or
 - vi. sensors, signals, or records related to the DPF, EGR, catalyst, OBD, or SCR.
 - b. Simulates the operation of any emission related parts including, but not limited to, the DPF, EGR, catalyst, OBD, SCR, or sensors, signals, or records related to these systems;
 - c. Can be programed to modify engine operating or emission control parameters or OBD functions including, but not limited to, those parameters sensed or controlled by the electronic control module ("ECM"); or
 - d. Has the effect of permanently or temporarily changing, affecting, bypassing, defeating, or rendering inoperative any emission control device, element of design, or emission related part.
2. In an **electronic, unlocked spreadsheet**, for each part or component that is identified in response to Request 1, answer "Yes" or "No" to the following questions:
 - a. Whether the part or component changes, affects, modifies, bypasses, renders inoperative, or allows for the deletion or partial deletion of a vehicle's DPF.
 - b. Whether the part or component changes, affects, modifies, bypasses, renders inoperative, or allows for the deletion or partial deletion of a vehicle's EGR.
 - c. Whether the part or component changes, affects, modifies, bypasses, renders inoperative, or allows for the deletion or partial deletion of a vehicle's catalyst.
 - d. Whether the part or component changes, affects, modifies, bypasses, renders inoperative, or allows for the deletion or partial deletion of a vehicle's OBD.

- e. Whether the part or component changes, affects, modifies, bypasses, renders inoperative, or allows for the deletion or partial deletion of a vehicle's SCR.
- f. Whether the part or component changes, affects, modifies, bypasses, renders inoperative, or allows for the deletion or partial deletion of sensors, signals, or records related to the DPF, EGR, catalyst, OBD, or SCR.
- g. Whether the part or component simulates the operation of any emission related parts including, but not limited to, the DPF, EGR, catalyst, OBD, SCR, or sensors, signals, or records related to these systems;
- h. Whether the part or component can be programmed to modify engine operating or emission control parameters or OBD functions including, but not limited to, those parameters sensed or controlled by the ECM;
- i. Whether the part or component has the effect of permanently or temporarily changing, affecting, bypassing, defeating, or rendering inoperative any emission control device, element of design, or emission related part;
- j. Whether the part or component is capable of disabling or allowing the removal of the EGR without illuminating a Malfunction Indicator Light ("MIL") or prompting any on-board Diagnostic Trouble Code ("DTC");
- k. Whether the product is capable of disabling or allowing the removal of the EGR without any engine derating;
- l. Whether the product is capable of allowing removal of a DPF without illuminating a MIL or prompting any DTC;
- m. Whether the product is capable of allowing removal of a DPF without any engine derating;
- n. Whether the product is capable of allowing removal of a Diesel Oxidation Catalyst without illuminating a MIL or prompting any DTC;
- o. Whether the product is capable of allowing removal of a Diesel Oxidation Catalyst without any engine derating;
- p. Whether the product is capable of allowing removal of a SCR system without illuminating a MIL or prompting any DTC;
- q. Whether the product is capable of allowing removal of a SCR system without any engine derating;
- r. Whether the product is capable of altering fuel timing maps within engine electronic calibrations; and

- s. Whether the product is capable of bypassing or altering parameters to prevent DTCs or MILs from being recorded or illuminated.
3. In an **electronic, unlocked spreadsheet**, for each part or component identified in Requests 1 and 2 above, provide the following information in electronic spreadsheet format:
 - a. The name and address of the manufacturer of each part or component;
 - b. The part number or component part number and the identifying name assigned by you, and the manufacturer's or supplier's part number or component part number and identifying name if different than yours;
 - c. The vehicle applications by make, model, fuel type (gasoline or diesel), engine size (in liters), transmission type, and model year;
 - d. A description of what the part or component does and how it operates;
 - e. If the part or component is or comprises a tuner, indicate whether it is sold with pre-loaded tunes;
 - f. The average per-unit cost of the part (in dollars);
 - g. The average per-unit sales price of the part (in dollars);
 - h. The specific dates, between July 1, 2018, and the date of this request, that the part or component was sold or offered for sale by you, and the quantity that was sold or offered for sale by you, by date;
 - i. The specific dates, between July 1, 2018, and the date of this request, that the part or component was installed by you, and the quantity that was installed by you, by date;
 - j. The quantity in inventory at Gexhaust LLC on the date of the request; and
 - k. The records of any emissions testing or reports regarding any effect on vehicle emissions.
 4. For any tests identified in response to Request 3.k. above, provide the following information:
 - a. A description of the test, including identification of the component and vehicle, the EPA engine family, name of the vehicle, test equipment, test protocols, and calibration procedures;
 - b. A sample test report and any training or instructional materials used for educating employees and affiliated persons about how to perform the test; and
 - c. The date and location of the test, the name and position of the person that conducted the test, and the test results.

5. For each part or component identified in Requests 1 through 3 above, provide the following:
 - a. Copies of your advertisements to sell, distribute, or install each part or component, including advertisements on websites and in other media;
 - b. Copies of any installation or operation instructions, guides, or manuals; and
 - c. Copies of receipts or invoices for all parts or components sold by you.
6. Identify the name, address, contact person, and phone number of each company or entity to which Gexhaust LLC provided an invoice or receipt in response to Request 5.c.
7. Identify the name, address, contact person, and phone number of each company or entity from which Gexhaust LLC purchased a part or component identified in Requests 1 through 3 above or on whose behalf Gexhaust LLC sold or distributed a part or component identified in Requests 1 through 3 above.
8. For parts or components that are identified in response to Requests 1 through 3 above, state whether each component received an Executive Order exempting the component from California's emission control system anti-tampering law, California Vehicle Code § 27156. If the component received an Executive Order, provide the Executive Order number and the entity to whom it was issued.
9. Provide the name and address of each location where you have stored and are currently storing any of the parts or components identified in response to Requests 1 through 3.
10. Provide a complete, unedited copy of every work order or service order and final bill for every vehicle serviced by Gexhaust LLC between July 1, 2018, and the date of this request, including copies of all attachments.
11. Provide the name and address of each location where you have stored and are currently storing any of the records identified in response to Requests 5 and 10.
12. If you do not have any of the copies of any of the documents requested in Request 10, above, indicate for each instance why you do not have them.
13. Identify each individual responsible for responding to this Request for Information, including his/her title(s), the request(s) to which each individual responded, and the period of time for which each individual is providing a response.
14. Provide a list of all entities that are affiliates of Gexhaust LLC including their addresses and telephone numbers. Describe the business relationships between all entities and provide copies of all agreements with those entities. Include a description of both formal and informal agreements, financial inter-relationships, overlap of officers and directors, and any business practices that exist between these entities. For each entity identified, list any and all name variations or business aliases used. Provide a corporate organizational chart showing all of Gexhaust LLC's affiliates.

15. For each of the entities described in response to Request No. 14, provide certificates of good standing, articles of incorporation, by-laws, and partnership or membership agreements, as applicable.
16. For each of the entities described in response to Request No. 14, provide a list of each entity's officers, directors, shareholders, members, managers, and partners, as applicable.
17. For each of the entities described in response to Request No. 14, provide the address(es) of any location(s), between July 1, 2018, and the date of this request, where the entities have operated.
18. If corporate changes occurred between July 1, 2018, and the date of this request, including but not limited to changes related to acquisitions, reorganizations, or mergers, describe such changes in narrative form.

ENCLOSURE 5

STATEMENT OF CERTIFICATION

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001, 1341 and 1505.

(Signature)

(Printed Name)

(Title)

(Date)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

DEC 12 2019

UNITED PARCEL SERVICE
EMAIL VERIFICATION REQUESTED

Kevin Simmons, Registered Agent
Global Automotive of Miami, Inc.
13941 SW 143rd Court, STE. #4
Miami, Florida 33186

Dear Mr. Simmons:

Pursuant to Section 208(a) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7542(a), you are hereby required to provide the U.S. Environmental Protection Agency with information relating to Global Automotive of Miami, Inc.'s (GAMI) business. The EPA is seeking this information to determine whether GAMI is in compliance with requirements of Sections 203(a) and 213(d) of the Act, 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable motor vehicle regulations at 40 C.F.R. Parts 85, 86, and 1068.

The EPA issues this Request for Information under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA, Title II, Part A – Motor Vehicle Emission and Fuel Standards, Sections 202 – 219, 42 U.S.C. §§ 7521-7554, to perform tests and provide information necessary to determine whether the person is acting or has acted in compliance with the CAA and the regulations promulgated thereunder. The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, Region 4.

Please review the following enclosures and complete as appropriate: Instructions (Enclosure 1), Definitions (Enclosure 2), Claiming Confidentiality (Enclosure 3), Request for Information (Enclosure 4), Statement of Certification (Enclosure 5), and Response Excel Template (Enclosure 6).

Please submit the requested information to the EPA per the instructions contained in Enclosure 1. Your responses are required to be submitted **no later than thirty (30) calendar days** after GAMI's receipt of this letter as determined by the date of the Email Verification, unless the EPA, for good cause shown, extends in writing the deadline for responding to the request. This information must be submitted to the following individual:

Todd Groendyke
U.S. EPA, Region 4
Air Enforcement Branch
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Failure to provide the information required by this letter is a violation of the Act and may result in one or more of the following actions: (1) commencement of a civil action seeking compliance with this request pursuant to Section 204 of the Act, 42 U.S.C. § 7523; (2) issuance of an administrative penalty order pursuant to Section 205(c) of the Act, 42 U.S.C. § 7424(c); (3) commencement of a civil action in accordance with Section 205(b) of the Act, 42 U.S.C. § 7524(b); and/or (4) any other action authorized under the Act.

Under Section 208(c) of the Act, 42 U.S.C. § 7542(c), and pursuant to the regulations found at 40 C.F.R. Part 2, Subpart B, including 40 C.F.R. § 2.301, you are entitled to assert a claim of business confidentiality for any information you provide to the EPA which you regard as confidential business information (CBI). For such information, you may request that the EPA treat such information as confidential. Any such claim of confidentiality must conform to the requirements of 40 C.F.R. § 2.203(b). Note that "emission data," as defined by 40 C.F.R. § 2.301(a)(2), cannot be claimed as confidential under Section 208(c) of the Act, 42 U.S.C. § 7542(c). For detailed instructions for claiming confidentiality, please see Enclosure 3. Information you supply under a claim of confidentiality will be treated in accordance with 40 C.F.R. Part 2, Subpart B, and will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to GAMI. Please note that any confidentiality claim does not obviate the need to send that portion of the response to the EPA.

The response to the information requested must be accompanied by Enclosure 5, Statement of Certification, which is to be signed and dated by a responsible official of GAMI. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this request that are known to you, following a complete and thorough review of all information and sources available to you.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 – 3520, because it seeks information from specific individuals or entities as part of an investigation.

If you have any questions regarding this matter, please contact Todd Groendyke at (404) 562-8262 or by electronic mail at groendyke.todd@epa.gov.

Sincerely,



Carol L. Kemker
Director

Enforcement and Compliance Assurance Division

Enclosures

ENCLOSURE 1

Instructions

1. Provide a complete, detailed response, in English, to each Request in Enclosure 4.
2. Provide a separate response to each and every question, and each and every subpart of a question.
3. Please provide your response to all questions of this Information Request in electronic form on a disk (CD or DVD media), flash drive, hard drive, or similar digital data storage device. All responsive documents and materials (e.g., copies of print media, audio, and visual material) must be provided as an accurate and legible copy in searchable format, number stamped in sequential order (e.g., BATES stamped).
4. Please provide your responses to Requests 1 through 7 in an unlocked, electronic spreadsheet format. For your convenience, the EPA has provided Enclosure 6 which consists of an Excel template in which you are requested to organize your responses to Requests 1 through 7. If Excel format is not available, then the format should allow for data to be imported and used in calculations by a standard spreadsheet program such as Excel. You may enter your responses directly onto the provided disk or utilize your preferred form of electronic media as described in Instruction 3 above.
5. Identify each person whom you relied on or consulted with in preparing your responses to each question of this information request. Provide their name, title, job duties and duration of employment with the company. If they are not an employee of the company, identify their employer and provide their name, title, job duties and duration of employment with their employer.
6. Where a Request allows or requires documents to be provided in response, provide all documents electronically in a file folder specific to that question or subpart and labeled accordingly.
7. When a response is provided in the form of a number, specify the units of measure.
8. Where documents or information necessary for a response is not in your possession, custody, or control, indicate in your response why such documents or information are not available or in your possession, custody, or control, and identify any source that either possesses or is likely to possess such information.
9. If you assert any objections in responding to this Information Request, each objection must state with specificity the grounds for objecting to the request, including the reasons, and must state whether any responsive materials are being withheld on the basis of that objection.
10. You must promptly supplement your response to any Request in Enclosure 4 in the event you learn that you possess responsive information not yet produced or if you gain possession, custody, or control of responsive information after responding to this Information Request.

ENCLOSURE 2

Definitions

1. The term “affiliated organization” or “affiliate” means any organization or entity associated with Global Automotive of Miami, Inc., as an agent, parent organization, predecessor corporation, sister company, subsidiary organization, or any organization or entity acting in lieu of you.
2. The term “applications” means all vehicle or engine configurations.
3. The term “catalysts” means systems or devices which increase the rate of a chemical reaction but are not one of the original reactants or final products, *i.e.*, the catalyst is not consumed or altered in the reaction. The term “catalysts” includes emission control catalysts such as diesel oxidation catalysts (“DOCs”), NO_x adsorber catalysts (“NACs”), and three-way catalysts (“TWCs”).
4. The term “derate” or “derating” means an electronic control module mode that reduces the engine power or vehicle speed after the OBD system identifies a problem with the emission control equipment.
5. The term “DPF” refers to diesel particulate filters, which are exhaust aftertreatment devices that typically use a porous ceramic or cordierite substrate or metallic filter to physically trap particulate matter (“PM”) and remove it from the exhaust stream.
6. The term “element of design” means any control system (e.g., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine, as defined in 40 C.F.R. §§ 86.094-2 and 86.1803-01.
7. The term “electronic control module” or “ECM” means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. The ECM uses software programming including calculations and tables of information to provide the appropriate outputs. Multiple electronic control modules may be incorporated in a single unit to control various engine, vehicle, or equipment functions. ECM can be a generic term but may refer specifically to the engine control module when discussing emission controls on vehicles and engines. Examples of electronic control modules include, but are not limited to, the Engine Control Module, OBD Control Modules, Powertrain Control Module (“PCM”), Transmission Control Module (“TCM”), Body Control Module (“BCM”) and aftertreatment control module.
8. The term “engine management product” or “EM product” means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information stored within or used by an ECM. EM products include, but are not limited to, programmers, modules, tuners, ECM calibration tools, replacement ECMs, flash tools, or engine management products.
9. The term “emission related parts” means those parts installed for the specific purpose of controlling emissions, or those components, systems, or elements of design which must function properly to assure continued vehicle emission compliance, as defined in 40 C.F.R. § 85.2102.

10. The term “engine tune,” “tune,” or “calibration” means any combination of software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information, stored in any form, capable of affecting or controlling an ECM.
11. The term “entity” means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization or association.
12. The term “exhaust product” means exhaust components designed for use downstream from the exhaust port of a motor vehicle engine, and include, but are not limited to turbochargers, EGR block plates, EGR delete kits, EGR reroute kits, EGR solution kits, exhaust replacement pipes, downpipe-back exhaust systems, turbo-back exhaust systems, race pipes, test pipes and straight pipes.
13. The term “exhaust gas recirculation” or “EGR” means systems which redirect, usually by use of an EGR valve, a portion of engine exhaust back into the engine’s combustion chamber to cool and reduce peak combustion temperatures and pressures, thereby reducing the production of nitrogen oxides (“NOx”). The EGR system may include an EGR cooler to cool the recirculated exhaust to further reduce the combustion temperature.
14. The term “information” includes any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intraoffice communications, electronic mail (“email”), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting, or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, presentations, spreadsheets, and worksheets. The term “information” includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term “information” also includes any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back-up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. Information bearing any notation not part of the original text is considered to be separate information. A draft or non-identical copy is separate information within the meaning of this term.
15. The term “manufacture” includes the creation, design, development, alteration, fabrication, production, or programming of a software code, software, hardware, program, element of design, calibration, engine tune, EM product, engine tuner, device, part, or component.

16. The term "onboard diagnostics" or "OBD" means systems which monitor components' emission-related systems and assists repair technicians in diagnosing and fixing problems with those emission-related systems. If a problem is detected, an OBD system should record a Diagnostic Trouble Code ("DTC"), illuminate a Malfunction Indicator Light ("MIL") or other warning lamp on the vehicle instrument panel, and/or provide information to the ECM which induces Engine Derate due to malfunctioning or missing emission-related systems.
17. The term "person" includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
18. The term "product" includes any software code, software, hardware, program, element of design, calibration, engine tune, EM product, device, part or component.
19. The term "you," "your," and "GAMI" means Global Automotive of Miami, Inc., and any affiliates, predecessors, successors, assignees, agents, employees, representatives, investigators, accountants, auditors, attorneys, experts, consultants, and contractors. These terms shall also mean any others who are not listed above and are in possession, custody, or control (actual or constructive) of information relevant to this request or information that is otherwise available to Global Automotive of Miami, Inc., or who may have obtained information for or on behalf of Global Automotive of Miami, Inc.
20. The term "SCR system" refers to the selective catalytic reduction system, which is an exhaust aftertreatment device designed to reduce NOx emissions by injecting a liquid reagent through a catalyst.
21. The term "service" means any action to change, affect, modify, bypass, render inoperative, remove, download and/or install one or more part(s) or component(s) (e.g., emission control components) or other item(s), including, but not limited to, engine parts, turbochargers, block plates, straight pipes, power packages, computer tuning, calibrations, elements of design, tuners, tunes, software, code, or devices.

All terms not defined in this enclosure have their ordinary meaning, unless such terms are defined in the Clean Air Act and/or its implementing regulations, and in which case the statutory and/or regulatory definitions apply. Words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions. The terms "and" and "or" shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this information request any information which might otherwise be construed to be outside its scope.

ENCLOSURE 3

Confidential Business Information (CBI) Assertion and Substantiation Requirements

A. Assertion Requirements

You may assert a business confidentiality claim covering part or all of the information, other than emissions data and information or data that is otherwise publicly available, as described in 40 C.F.R. § 2.203(b). If no business confidentiality claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice. To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any information over which you make a claim of confidentiality should be marked by placing on or attaching to the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret” or “proprietary” or “business confidential” and a date if any when the information should no longer be treated as confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. Information covered by such a claim will be disclosed by the EPA only to the extent permitted and by means of the procedures set forth by Section 208(c) of the Act, and 40 C.F.R. Part 2, Subpart B.

B. Substantiation Requirements

All confidentiality claims are subject to the EPA verification and must be made in accordance with 40 C.F.R. Part 2, Subpart B. You bear the burden of substantiating your confidentiality claim and must satisfactorily show that disclosure of the information would be likely to cause substantial harm to your business’ competitive position; that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; and that the information is not and has not been reasonably obtainable by legitimate means without your consent, among other things. Conclusory allegations will be given little or no weight.

Before the EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, the EPA will send you a letter asking you to substantiate fully your CBI claim by answering 11 questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. You must provide the EPA with a response within the number of days set forth in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

The EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied. Any information not specifically identified as subject to a confidentiality claim may be disclosed without further notice to you. For each item or class of information that you identify as being confidential, the EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in the EPA’s determination:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. For each item or category of information claimed as confidential, explain with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
8. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
9. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.
10. If you believe any information to be (a) trade secret (s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret (s).
11. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data).

Please note that emission data provided under Section 208 of the Act, 42 U.S.C. § 7542, is not entitled to confidential treatment under 40 C.F.R. Part 2. "Emission data" means, with reference to any source of emission of any substance into the air - (A) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission

which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing; (B) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and (C) a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

ENCLOSURE 4

Request for Information

Global Automotive of Miami, Inc., shall submit the following information to the EPA, pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, regarding certain parts or components that you either manufactured (i.e., created, wrote, programmed, fabricated, produced, or modified), offered for sale, sold, or installed since December 1, 2018.

Provide the following information in Enclosure 6, worksheet 1.

1. Identify each EM product GAMI manufactured, sold, offered for sale, or installed during the period from December 1, 2018, through the date of this letter, in Enclosure 6, worksheet 1, and provide the:
 - a. Part Number, Item Code, or other unique identifier used by GAMI;
 - b. Product name;
 - c. Product manufacturer (if different);
 - d. Identify the product's applications by vehicle type, make, model, and year;
 - e. Quantity GAMI sold during the period December 1, 2018, through the date of this Information Request;
 - f. Average GAMI sale price;
 - g. Indicate if you advertised this product and provide the electronic file names of each advertisement (if applicable);
 - h. Identify whether the product affects or changes fuel delivery rate, timing of mixtures, diagnostics, turbo boost, or other engine parameters or calibrations.
 - i. Describe how the product differs from the stock components it replaces or specifically changes the stock configuration. You may provide owner's or installation manuals for a product in lieu of a narrative description if you identify the electronic names of the files.
 - j. Is the product sold with or without the following:
 - i. Tunes;
 - ii. Tunes from the EM product manufacturer;
 - iii. Tunes manufactured by you;
 - iv. Tunes manufactured by you sold without an EM product (i.e. calibration file only);
 - v. If no to i – iv, describe the product in detail.
 - k. If the product includes a tune manufactured by you provide the following:
 - i. The software used to develop the tune;
 - ii. The developer of the software; and
 - iii. A list of compatible EM products.
 - l. Does the product permanently or temporarily change, affect, or bypass a motor vehicle's emission related parts, including but not limited to the:
 - i. EGR;
 - ii. DPF
 - iii. SCR;
 - iv. catalyst;
 - v. OBD; or
 - vi. any sensors, signals, or records related to these systems;

- m. Indicate whether the product modifies, interferes, or overrides the vehicles' OBD system;
 - n. Indicate whether the product replaces or overwrites an ECM;
 - o. Indicate whether, together with the addition, modification, or removal of a motor vehicle's parts, the product has the effect to permanently or temporarily change, affect, bypass, defeat, or render inoperative a motor vehicle emission control device or emission related part; and
 - p. Quantity company installed during the period December 1, 2018, through the date of this Information Request.
2. For each product identified in response to Request 1, indicate in Enclosure 6, worksheet 1 whether:
- a. the product is capable of disabling the EGR without illuminating a MIL or prompting any on-board DTC;
 - b. GAMI has sold a version of the product that, upon installation and without post-sale modification of the product, disables or allows the end user to disable the EGR without illuminating a MIL or prompting any DTC;
 - c. the product is capable of disabling the EGR without any engine derating;
 - d. GAMI has sold a version of the product that, upon installation and without post-sale modification of the product, disables or allows the end user to disable the EGR without any engine derating;
 - e. the product is capable of allowing the removal of the EGR without illuminating a MIL or prompting any on-board DTC;
 - f. GAMI has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the EGR without illuminating a MIL or prompting any DTC;
 - g. the product is capable of allowing the removal of the EGR without any engine derating;
 - h. GAMI has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the EGR without any engine derating;
 - i. the product is capable of allowing removal of a DPF without illuminating a MIL or prompting any DTC;
 - j. GAMI has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the DPF without illuminating a MIL or prompting any DTC;
 - k. the product is capable of allowing removal of a DPF without any engine derating;
 - l. GAMI has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a DPF without any engine derating;
 - m. the product is capable of disabling or allowing removal of a SCR system without illuminating a MIL or prompting any DTC;
 - n. GAMI has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a SCR system without illuminating a MIL or prompting any DTC;
 - o. the product is capable of allowing removal of a SCR system without any engine derating;
 - p. GAMI has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a SCR system without any engine derating;
 - q. the product is capable of allowing removal of a catalyst without illuminating a MIL or prompting any DTC;

- r. GAMI has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a catalyst without illuminating a MIL or prompting any DTC;
 - s. the product is capable of allowing removal of a catalyst without any engine derating;
 - t. GAMI has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a catalyst without any engine derating;
 - u. GAMI has sold a version of the product that, upon installation and without post-sale modification of the product, alters fuel timing maps within engine electronic calibrations;
 - v. the product is capable of bypassing or altering parameters to prevent DTCs or MILs from being recorded or illuminated; and
 - w. GAMI has sold a version of the product that, upon installation and without post-sale modification of the product, prevents DTCs or MILs from being recorded or illuminated.
3. For each product identified in response to Request 1 which GAMI sold during the period December 1, 2018, through the date of this Information Request, provide all sales information using the format provided in Enclosure 6, worksheet 2. GAMI may provide the requested information in an electronic spreadsheet exported from an invoice management program such as QuickBooks in lieu of using Enclosure 6, worksheet 2.
4. Identify each exhaust product manufactured, sold, offered for sale, or installed during the period from December 1, 2018, through the date of this letter, in Enclosure 6, worksheet 3, and provide the:
- a. Part Number, Item Code, or other unique identifier used by GAMI;
 - b. Product name;
 - c. Product manufacturer (if different);
 - d. Identify the product's applications by vehicle type, make, model, and year;
 - e. Quantity GAMI sold during the period December 1, 2018, through the date of this Information Request;
 - f. Average GAMI sale price;
 - g. Indicate if you have advertised this product and provide electronic file names of each advertisement (if applicable);
 - h. Describe how the product differs from the stock components it replaces or specifically changes the stock configuration. You may provide owner's or installation manuals for a product in lieu of a narrative description if you identify the electronic names of the files.
 - i. Does the product permanently or temporarily changes, affects, or bypasses a motor vehicle's emission related parts, including but not limited to the:
 - i. EGR;
 - ii. DPF;
 - iii. SCR;
 - iv. Catalyst;
 - v. OBD; or
 - vi. any sensors, signals, or records related to these systems;
 - j. Indicate whether, together with the addition, modification, or removal of a motor vehicle's parts, the product has the effect to permanently or temporarily change, affect, bypass, defeat, or render inoperative a motor vehicle emission control device or emission related part; and

- k. Quantity GAMI installed during the period December 1, 2018, through the date of this Information Request.
5. For each product identified in response to Request 4 which GAMI sold during the period December 1, 2018, through the date of this Information Request, provide all sales information using the format provided in Enclosure 6, worksheet 4. GAMI may provide the requested information in an electronic spreadsheet exported from an invoice management program such as QuickBooks in lieu of using Enclosure 6, worksheet 4.

Provide the following information in Enclosure 6, worksheet 5.

6. For products identified in response to Requests 1 and 4, state whether GAMI or any other entity conducted tests measuring emissions of hydrocarbons, carbon monoxide, nitrogen oxides, or particulate matter, including tests that measure the impact of the product on motor vehicle emissions or that measure the impact of the product on a vehicle's emission control devices or elements of design. For each such test, provide the following information:
- a. a description of the test, including identification of the product and vehicle, the EPA engine family, name of the vehicle, test equipment, test protocols, and calibration procedures;
 - b. any training or instructional materials used for educating employees and affiliates about how to perform the test; and
 - c. the date and location of the test, the name and position of the person that conducted the test, and the test results.
7. For products that are identified in response to Requests 1 and 4:
- a. State whether GAMI or any other entity submitted an application for an Executive Order to the California Air Resources Board;
 - i. if so, provide a copy of the application for each product.
 - b. State whether each product received an Executive Order exempting the product from California's emission control system anti-tampering law, California Vehicle Code § 27156.
 - c. If the product received an Executive Order, provide the Executive Order number; and
 - d. If the product received an Executive Order, state whether the California Air Resources Board required changes to the product or application to receive approval.

Provide the following information.

8. Provide a complete, unedited copy of every estimate, work order, invoice and final bill for each vehicle serviced by GAMI between December 1, 2018, and the date of this request, including copies of all attachments.
9. For each product identified in response to Requests 1 and 4:
- a. provide a detailed written description of all methods by which the product has been promoted or publicized by GAMI, including but not limited to, print media, commercial websites, point-of-sale webpages, event promotion or sponsorship, trade show promotion, or social media promotion, including promotion dates and/or date ranges, if applicable;
 - b. provide copies of all advertisements for the product published in print or electronic

- media, including commercial websites, point-of-sale webpages, or social media;
 - c. provide a list of other entities known to have advertised the product; and
 - d. provide all manuals available (e.g., owner's and installation).
10. Provide a detailed, written description of GAMI's business structure including ownership, corporate form, parent, sister and/or subsidiary companies, and affiliated organizations.
 11. Provide the location of all warehouses or storage facilities where GAMI stores products.
 12. Provide the name, address, telephone number, uniform resource locator (URL) and email address for any manufacturer, wholesaler, dealer, or retailer from whom GAMI has purchased engine management products, exhaust products, and/or tunes between December 1, 2018, and the date of this request.
 13. Provide the name and URL of all internet websites, stores (including Amazon and eBay stores) and/or platforms where GAMI has sold or offered to sell engine management products, exhaust products, and/or tunes between December 1, 2018, and the date of this request.

ENCLOSURE 5

STATEMENT OF CERTIFICATION

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001, 1341 and 1505.

(Signature)

(Printed Name)

(Title)

(Date)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

OCT 16 2019

UNITED PARCEL SERVICE
EMAIL VERIFICATION REQUESTED

George Kryssing Jr.
CEO
Kooks Custom Headers, Inc.
141 Advantage Place
Statesville, North Carolina 28677

Dear Mr. Kryssing:

Pursuant to Section 208(a) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7542(a), you are hereby required to provide the U.S. Environmental Protection Agency with information relating to Kooks Custom Headers, Inc.'s (Kooks) business. The EPA is seeking this information to determine whether Kooks is in compliance with requirements of Sections 203(a) and 213(d) of the Act, 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable motor vehicle regulations at 40 C.F.R. Parts 85, 86, and 1068.

The EPA issues this Request for Information under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA, Title II, Part A – Motor Vehicle Emission and Fuel Standards, Sections 202 – 219, 42 U.S.C. §§ 7521-7554, to perform tests and provide information necessary to determine whether the person is acting or has acted in compliance with the CAA and the regulations promulgated thereunder. The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, Region 4.

Please review the following enclosures and complete as appropriate: Instructions (Enclosure 1), Definitions (Enclosure 2), Claiming Confidentiality (Enclosure 3), Request for Information (Enclosure 4), Statement of Certification (Enclosure 5), and Response Excel Template (Enclosure 6).

Please submit the requested information to the EPA per the instructions contained in Enclosure 1. Your responses are required to be submitted **no later than thirty (30) calendar days** after Kooks' receipt of this letter as determined by the date of the email verification, unless the EPA, for good cause shown, extends in writing the deadline for responding to the request. This information must be submitted to the following individual:

Carrie Griffith
Air Enforcement Branch
U.S. EPA, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Internet Address (URL) • <http://www.epa.gov>

Failure to provide the information required by this letter is a violation of the Act and may result in one or more of the following actions: (1) commencement of a civil action seeking compliance with this request pursuant to Section 204 of the Act, 42 U.S.C. § 7523; (2) issuance of an administrative penalty order pursuant to Section 205(c) of the Act, 42 U.S.C. § 7424(c); (3) commencement of a civil action in accordance with Section 205(b) of the Act, 42 U.S.C. § 7524(b); and/or (4) any other action authorized under the Act.

Under Section 208(c) of the Act, 42 U.S.C. § 7542(c), and pursuant to the regulations found at 40 C.F.R. Part 2, Subpart B, including 40 C.F.R. § 2.301, you are entitled to assert a claim of business confidentiality for any information you provide to the EPA which you regard as confidential business information (CBI). For such information, you may request that the EPA treat such information as confidential. Any such claim of confidentiality must conform to the requirements of 40 C.F.R. § 2.203(b). Note that "emission data," as defined by 40 C.F.R. § 2.301(a)(2), cannot be claimed as confidential under Section 208(c) of the Act, 42 U.S.C. § 7542(c). For detailed instructions for claiming confidentiality, please see Enclosure 3. Information you supply under a claim of confidentiality will be treated in accordance with 40 C.F.R. Part 2, Subpart B, and will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to Kooks. Please note that any confidentiality claim does not obviate the need to send that portion of the response to the EPA.

The response to the information requested must be accompanied by Enclosure 5, Statement of Certification, which is to be signed and dated by a responsible official of Kooks. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this request that are known to you, following a complete and thorough review of all information and sources available to you.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 – 3520, because it seeks information from specific individuals or entities as part of an investigation.

If you have any questions regarding this matter, please contact Carrie Griffith at 404-562-9175 or griffith.carrie@epa.gov.

Sincerely,



Suzanne G. Rubini
Acting Director

Enforcement and Compliance Assurance Division

Enclosures

ENCLOSURE 1

Instructions

1. Provide a complete, detailed response, in English, to each Request in Enclosure 4.
2. Provide a separate response to each and every question, and each and every subpart of a question.
3. Please provide your response to all questions of this Information Request in electronic form on a disk (CD or DVD media), flash drive, hard drive, or similar digital data storage device. All responsive documents and materials (e.g., copies of print media, audio, and visual material) must be provided as an accurate and legible copy in searchable format, number stamped in sequential order (e.g., BATES stamped).
4. Please provide your responses to Requests 1 through 4 in an unlocked, electronic spreadsheet format. For your convenience, the EPA has provided Enclosure 6 which consists of an Excel template in which you are requested to organize your responses to Requests 1 through 4. If Excel format is not available, then the format should allow for data to be imported and used in calculations by a standard spreadsheet program such as Excel. You may enter your responses directly onto the provided disk or utilize your preferred form of electronic media as described in Instruction 3 above.
5. Identify each person whom you relied on or consulted with in preparing your responses to each question of this information request. Provide their name, title, job duties and duration of employment with the company. If they are not an employee of the company, identify their employer and provide their name, title, job duties and duration of employment with their employer.
6. Where a Request allows or requires documents to be provided in response, provide all documents electronically in a file folder specific to that question or subpart and labeled accordingly.
7. When a response is provided in the form of a number, specify the units of measure.
8. Where documents or information necessary for a response is not in your possession, custody, or control, indicate in your response why such documents or information are not available or in your possession, custody, or control, and identify any source that either possesses or is likely to possess such information.
9. If you assert any objections in responding to this Information Request, each objection must state with specificity the grounds for objecting to the request, including the reasons, and must state whether any responsive materials are being withheld on the basis of that objection.
10. You must promptly supplement your response to any Request in Enclosure 4 in the event you learn that you possess responsive information not yet produced or if you gain possession, custody, or control of responsive information after responding to this Information Request.

ENCLOSURE 2

Definitions

1. The term “affiliated organization” or “affiliate” means any organization or entity associated with Kooks Custom Headers Inc as an agent, parent organization, predecessor corporation, sister company, subsidiary organization, or any organization or entity acting in lieu of you.
2. The term “applications” means all vehicle or engine configurations.
3. The term “catalysts” means systems or devices which increase the rate of a chemical reaction but are not one of the original reactants or final products, *i.e.*, the catalyst is not consumed or altered in the reaction. The term “catalysts” includes emission control catalysts such as diesel oxidation catalysts (“DOCs”), NO_x adsorber catalysts (“NACs”), and three-way catalysts (“TWCs”).
4. The term “exhaust product” means exhaust components designed for use downstream from the exhaust port of a motor vehicle engine, and include, but are not limited to EGR block plates, EGR delete kits, EGR reroute kits, exhaust replacement pipes, race pipes, test pipes and straight pipes.
5. The term “DPF” refers to diesel particulate filters, which are exhaust aftertreatment devices that typically use a porous ceramic or cordierite substrate or metallic filter to physically trap particulate matter (“PM”) and remove it from the exhaust stream.
6. The term “element of design” means any control system (e.g., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine, as defined in 40 C.F.R. §§ 86.094-2 and 86.1803-01.
7. The term “emission related parts” means those parts installed for the specific purpose of controlling emissions, or those components, systems, or elements of design which must function properly to assure continued vehicle emission compliance, as defined in 40 C.F.R. § 85.2102.
8. The term “entity” means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization or association.
9. The term “exhaust gas recirculation” or “EGR” means systems which redirect, usually by use of an EGR valve, a portion of engine exhaust back into the engine’s combustion chamber to cool and reduce peak combustion temperatures and pressures, thereby reducing the production of nitrogen oxides (“NO_x”). The EGR system may include an EGR cooler to cool the recirculated exhaust to further reduce the combustion temperature.
10. The term “exhaust product” means exhaust components designed for use downstream from the exhaust port of a motor vehicle engine, and include, but are not limited to EGR block plates, EGR delete kits, EGR reroute kits, exhaust replacement pipes, race pipes, test pipes and straight pipes.

11. The term “information” includes any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intraoffice communications, electronic mail (“email”), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting, or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, presentations, spreadsheets, and worksheets. The term “information” includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term “information” also includes any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back-up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. Information bearing any notation not part of the original text is considered to be separate information. A draft or non-identical copy is separate information within the meaning of this term.
12. The term “manufacture” includes the creation, design, development, alteration, fabrication, production, or programming of a software code, software, hardware, program, element of design, calibration, engine tune, engine tuner, device, part, or component.
13. The term “onboard diagnostics” or “OBD” means systems which monitor components’ emission-related systems and assists repair technicians in diagnosing and fixing problems with those emission-related systems. If a problem is detected, an OBD system should record a Diagnostic Trouble Code (“DTC”), illuminate a Malfunction Indicator Light (“MIL”) or other warning lamp on the vehicle instrument panel, and/or provide information to the ECM which induces Engine Derate due to malfunctioning or missing emission-related systems.
14. The term “person” includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
15. The term “product” includes any software code, software, hardware, program, element of design, calibration, engine tune, device, part or component.
16. The term “you,” “your,” and “Kooks” means Kooks Custom Headers, Inc., and any affiliates, predecessors, successors, assignees, agents, employees, representatives, investigators, accountants, auditors, attorneys, experts, consultants, and contractors. These terms shall also mean any others who are not listed above and are in possession, custody, or control (actual or constructive) of information relevant to this request or information that is otherwise available to Kooks Custom Headers, Inc, or who may have obtained information for or on behalf of Kooks Custom Headers, Inc.

17. The term “SCR system” refers to the selective catalytic reduction system, which is an exhaust aftertreatment device designed to reduce NO_x emissions by injecting a liquid reagent through a catalyst.
18. The term “service” means any action to change, affect, modify, bypass, render inoperative, remove, download and/or install one or more part(s) or component(s) (e.g., emission control components) or other item(s), including, but not limited to, engine parts, block plates, straight pipes, power packages, computer tuning, calibrations, elements of design, tuners, tunes, software, code, or devices.

All terms not defined in this enclosure have their ordinary meaning, unless such terms are defined in the Clean Air Act and/or its implementing regulations, and in which case the statutory and/or regulatory definitions apply. Words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions. The terms “and” and “or” shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this information request any information which might otherwise be construed to be outside its scope.

ENCLOSURE 3

Confidential Business Information (CBI) Assertion and Substantiation Requirements

A. Assertion Requirements

You may assert a business confidentiality claim covering part or all of the information, other than emissions data and information or data that is otherwise publicly available, as described in 40 C.F.R. § 2.203(b). If no business confidentiality claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice. To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any information over which you make a claim of confidentiality should be marked by placing on or attaching to the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret" or "proprietary" or "business confidential" and a date if any when the information should no longer be treated as confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. Information covered by such a claim will be disclosed by the EPA only to the extent permitted and by means of the procedures set forth by Section 208(c) of the Act, and 40 C.F.R. Part 2, Subpart B.

B. Substantiation Requirements

All confidentiality claims are subject to the EPA verification and must be made in accordance with 40 C.F.R. Part 2, Subpart B. You bear the burden of substantiating your confidentiality claim and must satisfactorily show that disclosure of the information would be likely to cause substantial harm to your business' competitive position; that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; and that the information is not and has not been reasonably obtainable by legitimate means without your consent, among other things. Conclusory allegations will be given little or no weight.

Before the EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, the EPA will send you a letter asking you to substantiate fully your CBI claim by answering 11 questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. You must provide the EPA with a response within the number of days set forth in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

The EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied. Any information not specifically identified as subject to a confidentiality claim may be disclosed without further notice to you. For each item or class of information that you identify as being confidential, the

EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in the EPA's determination:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. For each item or category of information claimed as confidential, explain with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
8. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
9. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.
10. If you believe any information to be (a) trade secret(s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret(s).
11. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data).

Please note that emission data provided under Section 208 of the Act, 42 U.S.C. § 7542, is not entitled to confidential treatment under 40 C.F.R. Part 2. "Emission data" means, with reference to any source of

emission of any substance into the air - (A) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing; (B) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and (C) a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

ENCLOSURE 4

Information Request

Kooks Custom Headers, Inc. (“Kooks” or “you”) shall submit the following information to the EPA, pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, regarding certain parts or components that you either manufactured (i.e., created, wrote, programmed, fabricated, produced, or modified), offered for sale, sold, or installed since October 1, 2018.

Provide the following information in Enclosure 6, worksheet 1.

1. Identify each exhaust product manufactured, sold, offered for sale, or installed during the period from October 1, 2018, through the date of this letter in Enclosure 6, worksheet 1, and provide the:
 - a. Part Number, Item Code, or other unique identifier used by Kooks;
 - b. Product name;
 - c. Product manufacturer (if different);
 - d. Identify the product’s applications by vehicle type, make, model, and year;
 - e. Quantity Kooks sold during the period October 1, 2018, through the date of this Information Request;
 - f. Average Kooks sale price;
 - g. Indicate if you have advertised this product and provide electronic copies of each advertisement (if applicable);
 - h. Describe how the product differs from the stock components it replaces or specifically changes the stock configuration. You may provide owner's or installation manuals for a product in lieu of a narrative description if you identify the electronic names of the files.
 - i. Does the product permanently or temporarily change, affect, or bypass a motor vehicle’s emission related parts, including but not limited to the:
 - i. EGR;
 - ii. DPF;
 - iii. SCR;
 - iv. Catalyst;
 - v. OBD; or
 - vi. any sensors, signals, or records related to these systems;
 - j. Indicate whether, together with the addition, modification, or removal of a motor vehicle’s parts, the product has the effect to permanently or temporarily change, affect, bypass, defeat, or render inoperative a motor vehicle emission control device or emission related part; and
 - k. Quantity Kooks installed during the period October 1, 2018, through the date of this Information Request.
2. For each product identified in response to Request 1 which Kooks sold during the period October 1, 2018, through the date of this Information Request, provide all sales information using the format provided in Enclosure 6, worksheet 2. Kooks may provide the requested information in an electronic spreadsheet exported from an invoice management program such as QuickBooks in lieu of using Enclosure 6, worksheet 2.

Provide the following information in Enclosure 6, worksheet 3.

3. For products identified in response to Request 1, state whether Kooks or any other entity conducted tests measuring emissions of hydrocarbons, carbon monoxide, nitrogen oxides, or particulate matter, including tests that measure the impact of the product on motor vehicle emissions or that measure the impact of the product on a vehicle's emission control devices or elements of design. For each such test, provide the following information:
 - a. a description of the test, including identification of the product and vehicle, the EPA engine family, name of the vehicle, test equipment, test protocols, and calibration procedures;
 - b. any training or instructional materials used for educating employees and affiliates about how to perform the test; and
 - c. the date and location of the test, the name and position of the person that conducted the test, and the test results.
4. For products that are identified in response to Request 1:
 - a. State whether Kooks or any other entity submitted an application for an Executive Order to the California Air Resources Board;
 - i. if so, provide a copy of the application for each product.
 - b. State whether each product received an Executive Order exempting the product from California's emission control system anti-tampering law, California Vehicle Code § 27156.
 - c. If the product received an Executive Order, provide the Executive Order number; and
 - d. If the product received an Executive Order, state whether the California Air Resources Board required changes to the product or application to receive approval.

Provide the following information.

5. Provide the work orders and/or invoices for all service performed by Kooks from January 1, 2018, through the date of this information request.
6. Provide a detailed, written description of Kooks' business structure including ownership, registered agent, corporate form, parent, sister and/or subsidiary companies, and affiliated organizations.
7. Provide the location of all warehouses or storage facilities where Kooks stores products.

ENCLOSURE 5

STATEMENT OF CERTIFICATION

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001, 1341 and 1505.

(Signature)

(Printed Name)

(Title)

(Date)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

NOV 8 2019

UNITED PARCEL SERVICE
EMAIL VERIFICATION REQUESTED

Pensacola Fuel Injection, Inc.
Phillip Walters, President
4605 N. Palafox Street
Pensacola, Florida 32505

Dear Mr. Walters:

Pursuant to Section 208(a) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7542(a), you are hereby required to provide the U.S. Environmental Protection Agency with information relating to Pensacola Fuel Injection, Inc.'s (PFI) business. The EPA is seeking this information to determine whether PFI is in compliance with requirements of Sections 203(a) and 213(d) of the Act, 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable motor vehicle regulations at 40 C.F.R. Parts 85, 86, and 1068.

The EPA issues this Request for Information under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA, Title II, Part A – Motor Vehicle Emission and Fuel Standards, Sections 202 – 219, 42 U.S.C. §§ 7521-7554, to perform tests and provide information necessary to determine whether the person is acting or has acted in compliance with the CAA and the regulations promulgated thereunder. The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, Region 4.

Please review the following enclosures and complete as appropriate: Instructions (Enclosure 1), Definitions (Enclosure 2), Claiming Confidentiality (Enclosure 3), Request for Information (Enclosure 4), Statement of Certification (Enclosure 5), and Response Excel Template (Enclosure 6).

Please submit the requested information to the EPA per the instructions contained in Enclosure 1. Your responses are required to be submitted **no later than thirty (30) calendar days** after PFI's receipt of this letter as determined by the date of the Email Verification, unless the EPA, for good cause shown, extends in writing the deadline for responding to the request. This information must be submitted to the following individual:

Todd Groendyke
Air Enforcement Branch
U.S. EPA, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Failure to provide the information required by this letter is a violation of the Act and may result in one or more of the following actions: (1) commencement of a civil action seeking compliance with this request pursuant to Section 204 of the Act, 42 U.S.C. § 7523; (2) issuance of an administrative penalty order pursuant to Section 205(c) of the Act, 42 U.S.C. § 7424(c); (3) commencement of a civil action in accordance with Section 205(b) of the Act, 42 U.S.C. § 7524(b); and/or (4) any other action authorized under the Act.

Under Section 208(c) of the Act, 42 U.S.C. § 7542(c), and pursuant to the regulations found at 40 C.F.R. Part 2, Subpart B, including 40 C.F.R. § 2.301, you are entitled to assert a claim of business confidentiality for any information you provide to the EPA which you regard as confidential business information (CBI). For such information, you may request that the EPA treat such information as confidential. Any such claim of confidentiality must conform to the requirements of 40 C.F.R. § 2.203(b). Note that "emission data," as defined by 40 C.F.R. § 2.301(a)(2), cannot be claimed as confidential under Section 208(c) of the Act, 42 U.S.C. § 7542(c). For detailed instructions for claiming confidentiality, please see Enclosure 3. Information you supply under a claim of confidentiality will be treated in accordance with 40 C.F.R. Part 2, Subpart B, and will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to PFI. Please note that any confidentiality claim does not obviate the need to send that portion of the response to the EPA.

The response to the information requested must be accompanied by Enclosure 5, Statement of Certification, which is to be signed and dated by a responsible official of PFI. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this request that are known to you, following a complete and thorough review of all information and sources available to you.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 – 3520, because it seeks information from specific individuals or entities as part of an investigation.

If you have any questions regarding this matter, please contact Todd Groendyke at (404) 562-8262 or by electronic mail at groendyke.todd@epa.gov.

Sincerely,



Carol L. Kemker
Director
Enforcement and Compliance Assurance Division

Enclosures

ENCLOSURE 1

Instructions

1. Provide a complete, detailed response, in English, to each Request in Enclosure 4.
2. Provide a separate response to each and every question, and each and every subpart of a question.
3. Please provide your response to all questions of this Information Request in electronic form on a disk (CD or DVD media), flash drive, hard drive, or similar digital data storage device. All responsive documents and materials (e.g., copies of print media, audio, and visual material) must be provided as an accurate and legible copy in searchable format, number stamped in sequential order (e.g., BATES stamped).
4. Please provide your responses to Requests 1 through 7 in an unlocked, electronic spreadsheet format. For your convenience, the EPA has provided Enclosure 6 which consists of an Excel template in which you are requested to organize your responses to Requests 1 through 7. If Excel format is not available, then the format should allow for data to be imported and used in calculations by a standard spreadsheet program such as Excel. You may enter your responses directly onto the provided disk or utilize your preferred form of electronic media as described in Instruction 3 above.
5. Identify each person whom you relied on or consulted with in preparing your responses to each question of this information request. Provide their name, title, job duties and duration of employment with the company. If they are not an employee of the company, identify their employer and provide their name, title, job duties and duration of employment with their employer.
6. Where a Request allows or requires documents to be provided in response, provide all documents electronically in a file folder specific to that question or subpart and labeled accordingly.
7. When a response is provided in the form of a number, specify the units of measure.
8. Where documents or information necessary for a response is not in your possession, custody, or control, indicate in your response why such documents or information are not available or in your possession, custody, or control, and identify any source that either possesses or is likely to possess such information.
9. If you assert any objections in responding to this Information Request, each objection must state with specificity the grounds for objecting to the request, including the reasons, and must state whether any responsive materials are being withheld on the basis of that objection.
10. You must promptly supplement your response to any Request in Enclosure 4 in the event you learn that you possess responsive information not yet produced or if you gain possession, custody, or control of responsive information after responding to this Information Request.

ENCLOSURE 2

Definitions

1. The term "affiliated organization" or "affiliate" means any organization or entity associated with Pensacola Fuel Injection, Inc. as an agent, parent organization, predecessor corporation, sister company, subsidiary organization, or any organization or entity acting in lieu of you.
2. The term "applications" means all vehicle or engine configurations.
3. The term "catalysts" means systems or devices which increase the rate of a chemical reaction but are not one of the original reactants or final products, *i.e.*, the catalyst is not consumed or altered in the reaction. The term "catalysts" includes emission control catalysts such as diesel oxidation catalysts ("DOCs"), NO_x adsorber catalysts ("NACs"), and three-way catalysts ("TWCs").
4. The term "derate" or "derating" means an electronic control module mode that reduces the engine power or vehicle speed after the OBD system identifies a problem with the emission control equipment.
5. The term "DPF" refers to diesel particulate filters, which are exhaust aftertreatment devices that typically use a porous ceramic or cordierite substrate or metallic filter to physically trap particulate matter ("PM") and remove it from the exhaust stream.
6. The term "element of design" means any control system (e.g., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine, as defined in 40 C.F.R. §§ 86.094-2 and 86.1803-01.
7. The term "electronic control module" or "ECM" means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. The ECM uses software programming including calculations and tables of information to provide the appropriate outputs. Multiple electronic control modules may be incorporated in a single unit to control various engine, vehicle, or equipment functions. ECM can be a generic term but may refer specifically to the engine control module when discussing emission controls on vehicles and engines. Examples of electronic control modules include, but are not limited to, the Engine Control Module, OBD Control Modules, Powertrain Control Module ("PCM"), Transmission Control Module ("TCM"), Body Control Module ("BCM") and aftertreatment control module.
8. The term "EM product" means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information stored within or used by an ECM. EM products include, but are not limited to, programmers, modules, tuners, ECM calibration tools, replacement ECMs, flash tools, or engine management products.
9. The term "emission related parts" means those parts installed for the specific purpose of controlling emissions, or those components, systems, or elements of design which must function properly to

assure continued vehicle emission compliance, as defined in 40 C.F.R. § 85.2102.

10. The term “engine tune,” “tune,” or “calibration” means any combination of software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information, stored in any form, capable of affecting or controlling an ECM.
11. The term “entity” means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization or association.
12. The term “exhaust product” means exhaust components designed for use downstream from the exhaust port of a motor vehicle engine, and include, but are not limited to turbochargers, EGR block plates, EGR delete kits, EGR reroute kits, exhaust replacement pipes, downpipe-back exhaust systems, turbo-back exhaust systems, race pipes, test pipes and straight pipes.
13. The term “exhaust gas recirculation” or “EGR” means systems which redirect, usually by use of an EGR valve, a portion of engine exhaust back into the engine’s combustion chamber to cool and reduce peak combustion temperatures and pressures, thereby reducing the production of nitrogen oxides (“NO_x”). The EGR system may include an EGR cooler to cool the recirculated exhaust to further reduce the combustion temperature.
14. The term “information” includes any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intraoffice communications, electronic mail (“email”), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting, or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, presentations, spreadsheets, and worksheets. The term “information” includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term “information” also includes any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back-up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. Information bearing any notation not part of the original text is considered to be separate information. A draft or non-identical copy is separate information within the meaning of this term.
15. The term “manufacture” includes the creation, design, development, alteration, fabrication, production, or programming of a software code, software, hardware, program, element of design,

calibration, engine tune, EM product, engine tuner, device, part, or component.

16. The term “onboard diagnostics” or “OBD” means systems which monitor components’ emission-related systems and assists repair technicians in diagnosing and fixing problems with those emission-related systems. If a problem is detected, an OBD system should record a Diagnostic Trouble Code (“DTC”), illuminate a Malfunction Indicator Light (“MIL”) or other warning lamp on the vehicle instrument panel, and/or provide information to the ECM which induces Engine Derate due to malfunctioning or missing emission-related systems.
17. The term “person” includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
18. The term “product” includes any software code, software, hardware, program, element of design, calibration, engine tune, EM product, device, part or component.
19. The term “you,” “your,” and “PFI” means Pensacola Fuel Injection, Inc., and any affiliates, predecessors, successors, assignees, agents, employees, representatives, investigators, accountants, auditors, attorneys, experts, consultants, and contractors. These terms shall also mean any others who are not listed above and are in possession, custody, or control (actual or constructive) of information relevant to this request or information that is otherwise available to Pensacola Fuel Injection, Inc., or who may have obtained information for or on behalf of Pensacola Fuel Injection, Inc.
20. The term “SCR system” refers to the selective catalytic reduction system, which is an exhaust aftertreatment device designed to reduce NOx emissions by injecting a liquid reagent through a catalyst.
21. The term “service” means any action to change, affect, modify, bypass, render inoperative, remove, download and/or install one or more part(s) or component(s) (e.g., emission control components) or other item(s), including, but not limited to, engine parts, block plates, straight pipes, power packages, computer tuning, calibrations, elements of design, tuners, tunes, software, code, or devices.

All terms not defined in this enclosure have their ordinary meaning, unless such terms are defined in the Clean Air Act and/or its implementing regulations, and in which case the statutory and/or regulatory definitions apply. Words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions. The terms “and” and “or” shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this information request any information which might otherwise be construed to be outside its scope.

ENCLOSURE 3

Confidential Business Information (CBI) Assertion and Substantiation Requirements

A. Assertion Requirements

You may assert a business confidentiality claim covering part or all of the information, other than emissions data and information or data that is otherwise publicly available, as described in 40 C.F.R. § 2.203(b). If no business confidentiality claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice. To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any information over which you make a claim of confidentiality should be marked by placing on or attaching to the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret" or "proprietary" or "business confidential" and a date if any when the information should no longer be treated as confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. Information covered by such a claim will be disclosed by the EPA only to the extent permitted and by means of the procedures set forth by Section 208(c) of the Act, and 40 C.F.R. Part 2, Subpart B.

B. Substantiation Requirements

All confidentiality claims are subject to the EPA verification and must be made in accordance with 40 C.F.R. Part 2, Subpart B. You bear the burden of substantiating your confidentiality claim and must satisfactorily show that disclosure of the information would be likely to cause substantial harm to your business' competitive position; that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; and that the information is not and has not been reasonably obtainable by legitimate means without your consent, among other things. Conclusory allegations will be given little or no weight.

Before the EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, the EPA will send you a letter asking you to substantiate fully your CBI claim by answering 11 questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. You must provide the EPA with a response within the number of days set forth in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

The EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied. Any information not specifically identified as subject to a confidentiality claim may be disclosed without further notice to you. For each item or class of information that you identify as being confidential, the

EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in the EPA's determination:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. For each item or category of information claimed as confidential, explain with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
8. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
9. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.
10. If you believe any information to be (a) trade secret (s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret (s).
11. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data).

Please note that emission data provided under Section 208 of the Act, 42 U.S.C. § 7542, is not entitled to confidential treatment under 40 C.F.R. Part 2. "Emission data" means, with reference to any source of emission of any substance into the air - (A) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing; (B) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and (C) a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

ENCLOSURE 4

Request for Information

Pensacola Fuel Injection, Inc. shall submit the following information to the EPA, pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, regarding certain parts or components that you either manufactured (i.e., created, wrote, programmed, fabricated, produced, or modified), offered for sale, sold, or installed since October 1, 2018.

Provide the following information in Enclosure 6, worksheet 1.

1. Identify each EM product PFI manufactured, sold, offered for sale, or installed during the period from October 1, 2018, through the date of this letter, in Enclosure 6, worksheet 1, and provide the:
 - a. Part Number, Item Code, or other unique identifier used by PFI;
 - b. Product name;
 - c. Product manufacturer (if different);
 - d. Identify the product's applications by vehicle type, make, model, and year;
 - e. Quantity PFI sold during the period October 1, 2018, through the date of this Information Request;
 - f. Average PFI sale price;
 - g. Indicate if you advertised this product and provide the electronic file names of each advertisement (if applicable);
 - h. Identify whether the product affects or changes fuel delivery rate, timing of mixtures, diagnostics, turbo boost, or other engine parameters or calibrations.
 - i. Describe how the product differs from the stock components it replaces or specifically changes the stock configuration. You may provide owner's or installation manuals for a product in lieu of a narrative description if you identify the electronic names of the files.
 - j. Is the product sold with or without the following:
 - i. Tunes;
 - ii. Tunes from the EM product manufacturer;
 - iii. Tunes manufactured by you;
 - iv. Tunes manufactured by you sold without an EM product (i.e. calibration file only);
 - v. If no to i – iv, describe the product in detail.
 - k. If the product includes a tune manufactured by you provide the following:
 - i. The software used to develop the tune;
 - ii. The developer of the software; and
 - iii. A list of compatible EM products.
 - l. Does the product permanently or temporarily change, affect, or bypass a motor vehicle's emission related parts, including but not limited to the:
 - i. EGR;
 - ii. DPF
 - iii. SCR;
 - iv. catalyst;
 - v. OBD; or

- vi. any sensors, signals, or records related to these systems;
 - m. Indicate whether the product modifies, interferes, or overrides the vehicles' OBD system;
 - n. Indicate whether the product replaces or overwrites an ECM;
 - o. Indicate whether, together with the addition, modification, or removal of a motor vehicle's parts, the product has the effect to permanently or temporarily change, affect, bypass, defeat, or render inoperative a motor vehicle emission control device or emission related part; and
 - p. Quantity company installed during the period October 1, 2018, through the date of this Information Request.
2. For each product identified in response to Request 1, indicate in Enclosure 6, worksheet 1 whether:
- a. the product is capable of disabling the EGR without illuminating a MIL or prompting any on-board DTC;
 - b. PFI has sold a version of the product that, upon installation and without post-sale modification of the product, disables or allows the end user to disable the EGR without illuminating a MIL or prompting any DTC;
 - c. the product is capable of disabling the EGR without any engine derating;
 - d. PFI has sold a version of the product that, upon installation and without post-sale modification of the product, disables or allows the end user to disable the EGR without any engine derating;
 - e. the product is capable of allowing the removal of the EGR without illuminating a MIL or prompting any on-board DTC;
 - f. PFI has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the EGR without illuminating a MIL or prompting any DTC;
 - g. the product is capable of allowing the removal of the EGR without any engine derating;
 - h. PFI has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the EGR without any engine derating;
 - i. the product is capable of allowing removal of a DPF without illuminating a MIL or prompting any DTC;
 - j. PFI has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the DPF without illuminating a MIL or prompting any DTC;
 - k. the product is capable of allowing removal of a DPF without any engine derating;
 - l. PFI has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a DPF without any engine derating;
 - m. the product is capable of disabling or allowing removal of a SCR system without illuminating a MIL or prompting any DTC;
 - n. PFI has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a SCR system without illuminating a MIL or prompting any DTC;
 - o. the product is capable of allowing removal of a SCR system without any engine derating;
 - p. PFI has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a SCR system without any engine derating;

- q. the product is capable of allowing removal of a catalyst without illuminating a MIL or prompting any DTC;
 - r. PFI has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a catalyst without illuminating a MIL or prompting any DTC;
 - s. the product is capable of allowing removal of a catalyst without any engine derating;
 - t. PFI has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a catalyst without any engine derating;
 - u. PFI has sold a version of the product that, upon installation and without post-sale modification of the product, alters fuel timing maps within engine electronic calibrations;
 - v. the product is capable of bypassing or altering parameters to prevent DTCs or MILs from being recorded or illuminated; and
 - w. PFI has sold a version of the product that, upon installation and without post-sale modification of the product, prevents DTCs or MILs from being recorded or illuminated.
3. For each product identified in response to Request 1 which PFI sold during the period October 1, 2018, through the date of this Information Request, provide all sales information using the format provided in Enclosure 6, worksheet 2. PFI may provide the requested information in an electronic spreadsheet exported from an invoice management program such as QuickBooks in lieu of using Enclosure 6, worksheet 2.
4. Identify each exhaust product manufactured, sold, offered for sale, or installed during the period from October 1, 2018, through the date of this letter, in Enclosure 6, worksheet 3, and provide the:
- a. Part Number, Item Code, or other unique identifier used by PFI;
 - b. Product name;
 - c. Product manufacturer (if different);
 - d. Identify the product's applications by vehicle type, make, model, and year;
 - e. Quantity PFI sold during the period October 1, 2018, through the date of this Information Request;
 - f. Average PFI sale price;
 - g. Indicate if you have advertised this product and provide electronic file names of each advertisement (if applicable);
 - h. Describe how the product differs from the stock components it replaces or specifically changes the stock configuration. You may provide owner's or installation manuals for a product in lieu of a narrative description if you identify the electronic names of the files.
 - i. Does the product permanently or temporarily changes, affects, or bypasses a motor vehicle's emission related parts, including but not limited to the:
 - i. EGR;
 - ii. DPF;
 - iii. SCR;
 - iv. Catalyst;
 - v. OBD; or
 - vi. any sensors, signals, or records related to these systems;
 - j. Indicate whether, together with the addition, modification, or removal of a motor vehicle's parts, the product has the effect to permanently or temporarily change, affect,

bypass, defeat, or render inoperative a motor vehicle emission control device or emission related part; and

- k. Quantity PFI installed during the period October 1, 2018, through the date of this Information Request.
5. For each product identified in response to Request 4 which PFI sold during the period October 1, 2018, through the date of this Information Request, provide all sales information using the format provided in Enclosure 6, worksheet 4. PFI may provide the requested information in an electronic spreadsheet exported from an invoice management program such as QuickBooks in lieu of using Enclosure 6, worksheet 4.

Provide the following information in Enclosure 6, worksheet 5.

6. For products identified in response to Requests 1 and 4, state whether PFI or any other entity conducted tests measuring emissions of hydrocarbons, carbon monoxide, nitrogen oxides, or particulate matter, including tests that measure the impact of the product on motor vehicle emissions or that measure the impact of the product on a vehicle's emission control devices or elements of design. For each such test, provide the following information:
 - a. a description of the test, including identification of the product and vehicle, the EPA engine family, name of the vehicle, test equipment, test protocols, and calibration procedures;
 - b. any training or instructional materials used for educating employees and affiliates about how to perform the test; and
 - c. the date and location of the test, the name and position of the person that conducted the test, and the test results.
7. For products that are identified in response to Requests 1 and 4:
 - a. State whether PFI or any other entity submitted an application for an Executive Order to the California Air Resources Board;
 - i. if so, provide a copy of the application for each product.
 - b. State whether each product received an Executive Order exempting the product from California's emission control system anti-tampering law, California Vehicle Code § 27156.
 - c. If the product received an Executive Order, provide the Executive Order number; and
 - d. If the product received an Executive Order, state whether the California Air Resources Board required changes to the product or application to receive approval.

Provide the following information.

8. Provide a complete, unedited copy of every estimate, work order, invoice and final bill for each vehicle serviced by PFI between October 1, 2018, and the date of this request, including copies of all attachments.
9. For each product identified in response to Requests 1 and 4:
 - a. provide a detailed written description of all methods by which the product has been promoted or publicized by PFI, including but not limited to, print media, commercial

- websites, point-of-sale webpages, event promotion or sponsorship, trade show promotion, or social media promotion, including promotion dates and/or date ranges, if applicable;
- b. provide copies of all advertisements for the product published in print or electronic media, including commercial websites, point-of-sale webpages, or social media;
 - c. provide a list of other entities known to have advertised the product; and
 - d. provide all manuals available (e.g., owner's and installation).
10. Provide a detailed, written description of PFI's business structure including ownership, corporate form, parent, sister and/or subsidiary companies, and affiliated organizations.
11. Provide the location of all warehouses or storage facilities where PFI stores products.

ENCLOSURE 5

STATEMENT OF CERTIFICATION

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001, 1341 and 1505.

(Signature)

(Printed Name)

(Title)

(Date)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

OCT 10 2019

UNITED PARCEL SERVICE
EMAIL VERIFICATION REQUESTED

Dennis Craig, President
Thoroughbred Performance Products, Inc.
4843 Rockwell Rd
Winchester, Kentucky 40391

Dear Mr. Craig:

Pursuant to Section 208(a) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7542(a), you are hereby required to provide the U.S. Environmental Protection Agency with information relating to Thoroughbred Performance Products, Inc.'s (Thoroughbred Diesel) business. The EPA is seeking this information to determine whether Thoroughbred Diesel is in compliance with requirements of Sections 203(a) and 213(d) of the Act, 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable motor vehicle regulations at 40 C.F.R. Parts 85, 86, and 1068.

The EPA issues this Request for Information under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA, Title II, Part A – Motor Vehicle Emission and Fuel Standards, Sections 202 – 219, 42 U.S.C. §§ 7521-7554, to perform tests and provide information necessary to determine whether the person is acting or has acted in compliance with the CAA and the regulations promulgated thereunder. The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, Region 4.

Please review the following enclosures and complete as appropriate: Instructions (Enclosure 1), Definitions (Enclosure 2), Claiming Confidentiality (Enclosure 3), Request for Information (Enclosure 4), Statement of Certification (Enclosure 5), and Response Excel Template (Enclosure 6).

Please submit the requested information to the EPA per the instructions contained in Enclosure 1. Your responses are required to be submitted **no later than thirty (30) calendar days** after Thoroughbred Diesel's receipt of this letter as determined by the date of the Email Verification, unless the EPA, for good cause shown, extends in writing the deadline for responding to the request. This information must be submitted to the following individual:

Todd Groendyke
Air Enforcement Branch
U.S. EPA, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Failure to provide the information required by this letter is a violation of the Act and may result in one or more of the following actions: (1) commencement of a civil action seeking compliance with this request pursuant to Section 204 of the Act, 42 U.S.C. § 7523; (2) issuance of an administrative penalty order pursuant to Section 205(c) of the Act, 42 U.S.C. § 7424(c); (3) commencement of a civil action in accordance with Section 205(b) of the Act, 42 U.S.C. § 7524(b); and/or (4) any other action authorized under the Act.

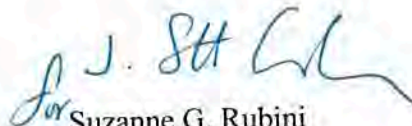
Under Section 208(c) of the Act, 42 U.S.C. § 7542(c), and pursuant to the regulations found at 40 C.F.R. Part 2, Subpart B, including 40 C.F.R. § 2.301, you are entitled to assert a claim of business confidentiality for any information you provide to the EPA which you regard as confidential business information (CBI). For such information, you may request that the EPA treat such information as confidential. Any such claim of confidentiality must conform to the requirements of 40 C.F.R. § 2.203(b). Note that "emission data," as defined by 40 C.F.R. § 2.301(a)(2), cannot be claimed as confidential under Section 208(c) of the Act, 42 U.S.C. § 7542(c). For detailed instructions for claiming confidentiality, please see Enclosure 3. Information you supply under a claim of confidentiality will be treated in accordance with 40 C.F.R. Part 2, Subpart B, and will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to Thoroughbred Diesel. Please note that any confidentiality claim does not obviate the need to send that portion of the response to the EPA.

The response to the information requested must be accompanied by Enclosure 5, Statement of Certification, which is to be signed and dated by a responsible official of Thoroughbred Diesel. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this request that are known to you, following a complete and thorough review of all information and sources available to you.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 – 3520, because it seeks information from specific individuals or entities as part of an investigation.

If you have any questions regarding this matter, please contact Todd Groendyke at (404) 562-8262 or by electronic mail at groendyke.todd@epa.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Suzanne G. Rubini", with a stylized flourish at the end.

Suzanne G. Rubini

Acting Director

Enforcement and Compliance Assurance Division

Enclosures

ENCLOSURE 1

Instructions

1. Provide a complete, detailed response, in English, to each Request in Enclosure 4.
2. Provide a separate response to each and every question, and each and every subpart of a question.
3. Please provide your response to all questions of this Information Request in electronic form on a disk (CD or DVD media), flash drive, hard drive, or similar digital data storage device. All responsive documents and materials (e.g., copies of print media, audio, and visual material) must be provided as an accurate and legible copy in searchable format, number stamped in sequential order (e.g., BATES stamped).
4. Please provide your responses to Requests 1 through 7 in an unlocked, electronic spreadsheet format. For your convenience, the EPA has provided Enclosure 6 which consists of an Excel template in which you are requested to organize your responses to Requests 1 through 7. If Excel format is not available, then the format should allow for data to be imported and used in calculations by a standard spreadsheet program such as Excel. You may enter your responses directly onto the provided disk or utilize your preferred form of electronic media as described in Instruction 3 above.
5. Identify each person whom you relied on or consulted with in preparing your responses to each question of this information request. Provide their name, title, job duties and duration of employment with the company. If they are not an employee of the company, identify their employer and provide their name, title, job duties and duration of employment with their employer.
6. Where a Request allows or requires documents to be provided in response, provide all documents electronically in a file folder specific to that question or subpart and labeled accordingly.
7. When a response is provided in the form of a number, specify the units of measure.
8. Where documents or information necessary for a response is not in your possession, custody, or control, indicate in your response why such documents or information are not available or in your possession, custody, or control, and identify any source that either possesses or is likely to possess such information.
9. If you assert any objections in responding to this Information Request, each objection must state with specificity the grounds for objecting to the request, including the reasons, and must state whether any responsive materials are being withheld on the basis of that objection.
10. You must promptly supplement your response to any Request in Enclosure 4 in the event you learn that you possess responsive information not yet produced or if you gain possession, custody, or control of responsive information after responding to this Information Request.

ENCLOSURE 2

Definitions

1. The term “affiliated organization” or “affiliate” means any organization or entity associated with Thoroughbred Performance Products, Inc. as an agent, parent organization, predecessor corporation, sister company, subsidiary organization, or any organization or entity acting in lieu of you.
2. The term “applications” means all vehicle or engine configurations.
3. The term “catalysts” means systems or devices which increase the rate of a chemical reaction but are not one of the original reactants or final products, *i.e.*, the catalyst is not consumed or altered in the reaction. The term “catalysts” includes emission control catalysts such as diesel oxidation catalysts (“DOCs”), NO_x adsorber catalysts (“NACs”), and three-way catalysts (“TWCs”).
4. The term “derate” or “derating” means an electronic control module mode that reduces the engine power or vehicle speed after the OBD system identifies a problem with the emission control equipment.
5. The term “DPF” refers to diesel particulate filters, which are exhaust aftertreatment devices that typically use a porous ceramic or cordierite substrate or metallic filter to physically trap particulate matter (“PM”) and remove it from the exhaust stream.
6. The term “element of design” means any control system (e.g., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine, as defined in 40 C.F.R. §§ 86.094-2 and 86.1803-01.
7. The term “electronic control module” or “ECM” means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. The ECM uses software programming including calculations and tables of information to provide the appropriate outputs. Multiple electronic control modules may be incorporated in a single unit to control various engine, vehicle, or equipment functions. ECM can be a generic term but may refer specifically to the engine control module when discussing emission controls on vehicles and engines. Examples of electronic control modules include, but are not limited to, the Engine Control Module, OBD Control Modules, Powertrain Control Module (“PCM”), Transmission Control Module (“TCM”), Body Control Module (“BCM”) and aftertreatment control module.
8. The term “EM product” means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information stored within or used by an ECM. EM products include, but are not limited to, programmers, modules, tuners, ECM calibration tools, replacement ECMs, flash tools, or engine management products.
9. The term “emission related parts” means those parts installed for the specific purpose of controlling emissions, or those components, systems, or elements of design which must function properly to

assure continued vehicle emission compliance, as defined in 40 C.F.R. § 85.2102.

10. The term “engine tune,” “tune,” or “calibration” means any combination of software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information, stored in any form, capable of affecting or controlling an ECM.
11. The term “entity” means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization or association.
12. The term “exhaust product” means exhaust components designed for use downstream from the exhaust port of a motor vehicle engine, and include, but are not limited to EGR block plates, EGR delete kits, EGR reroute kits, exhaust replacement pipes, race pipes, test pipes and straight pipes.
13. The term “exhaust gas recirculation” or “EGR” means systems which redirect, usually by use of an EGR valve, a portion of engine exhaust back into the engine’s combustion chamber to cool and reduce peak combustion temperatures and pressures, thereby reducing the production of nitrogen oxides (“NO_x”). The EGR system may include an EGR cooler to cool the recirculated exhaust to further reduce the combustion temperature.
14. The term “information” includes any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intraoffice communications, electronic mail (“email”), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting, or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, presentations, spreadsheets, and worksheets. The term “information” includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term “information” also includes any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back-up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. Information bearing any notation not part of the original text is considered to be separate information. A draft or non-identical copy is separate information within the meaning of this term.
15. The term “manufacture” includes the creation, design, development, alteration, fabrication, production, or programming of a software code, software, hardware, program, element of design, calibration, engine tune, EM product, engine tuner, device, part, or component.

16. The term "onboard diagnostics" or "OBD" means systems which monitor components' emission-related systems and assists repair technicians in diagnosing and fixing problems with those emission-related systems. If a problem is detected, an OBD system should record a Diagnostic Trouble Code ("DTC"), illuminate a Malfunction Indicator Light ("MIL") or other warning lamp on the vehicle instrument panel, and/or provide information to the ECM which induces Engine Derate due to malfunctioning or missing emission-related systems.
17. The term "person" includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
18. The term "product" includes any software code, software, hardware, program, element of design, calibration, engine tune, EM product, device, part or component.
19. The term "you," "your," and "Thoroughbred Diesel" means Thoroughbred Performance Products, Inc. and any affiliates, predecessors, successors, assignees, agents, employees, representatives, investigators, accountants, auditors, attorneys, experts, consultants, and contractors. These terms shall also mean any others who are not listed above and are in possession, custody, or control (actual or constructive) of information relevant to this request or information that is otherwise available to Thoroughbred Performance Products, Inc., or who may have obtained information for or on behalf of Thoroughbred Performance Products, Inc.
20. The term "SCR system" refers to the selective catalytic reduction system, which is an exhaust aftertreatment device designed to reduce NOx emissions by injecting a liquid reagent through a catalyst.
21. The term "service" means any action to change, affect, modify, bypass, render inoperative, remove, download and/or install one or more part(s) or component(s) (e.g., emission control components) or other item(s), including, but not limited to, engine parts, block plates, straight pipes, power packages, computer tuning, calibrations, elements of design, tuners, tunes, software, code, or devices.

All terms not defined in this enclosure have their ordinary meaning, unless such terms are defined in the Clean Air Act and/or its implementing regulations, and in which case the statutory and/or regulatory definitions apply. Words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions. The terms "and" and "or" shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this information request any information which might otherwise be construed to be outside its scope.

ENCLOSURE 3

Confidential Business Information (CBI) Assertion and Substantiation Requirements

A. Assertion Requirements

You may assert a business confidentiality claim covering part or all of the information, other than emissions data and information or data that is otherwise publicly available, as described in 40 C.F.R. § 2.203(b). If no business confidentiality claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice. To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any information over which you make a claim of confidentiality should be marked by placing on or attaching to the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret" or "proprietary" or "business confidential" and a date if any when the information should no longer be treated as confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. Information covered by such a claim will be disclosed by the EPA only to the extent permitted and by means of the procedures set forth by Section 208(c) of the Act, and 40 C.F.R. Part 2, Subpart B.

B. Substantiation Requirements

All confidentiality claims are subject to the EPA verification and must be made in accordance with 40 C.F.R. Part 2, Subpart B. You bear the burden of substantiating your confidentiality claim and must satisfactorily show that disclosure of the information would be likely to cause substantial harm to your business' competitive position; that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; and that the information is not and has not been reasonably obtainable by legitimate means without your consent, among other things. Conclusory allegations will be given little or no weight.

Before the EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, the EPA will send you a letter asking you to substantiate fully your CBI claim by answering 11 questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. You must provide the EPA with a response within the number of days set forth in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

The EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied. Any information not specifically identified as subject to a confidentiality claim may be disclosed without further notice to you. For each item or class of information that you identify as being confidential, the

EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in the EPA's determination:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. For each item or category of information claimed as confidential, explain with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
8. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
9. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.
10. If you believe any information to be (a) trade secret (s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret (s).
11. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data).

Please note that emission data provided under Section 208 of the Act, 42 U.S.C. § 7542, is not entitled to confidential treatment under 40 C.F.R. Part 2. "Emission data" means, with reference to any source of emission of any substance into the air - (A) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing; (B) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and (C) a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source). 40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

ENCLOSURE 4

Request for Information

Thoroughbred Performance Products, Inc shall submit the following information to the EPA, pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, regarding certain parts or components that you either manufactured (i.e., created, wrote, programmed, fabricated, produced, or modified), offered for sale, sold, or installed since September 1, 2018.

Provide the following information in Enclosure 6, worksheet 1.

1. Identify each EM product Thoroughbred Diesel manufactured, sold, offered for sale, or installed during the period from September 1, 2018, through the date of this letter, in Enclosure 6, worksheet 1, and provide the:
 - a. Part Number, Item Code, or other unique identifier used by Thoroughbred Diesel;
 - b. Product name;
 - c. Product manufacturer (if different);
 - d. Identify the product's applications by vehicle type, make, model, and year;
 - e. Quantity Thoroughbred Diesel sold during the period September 1, 2018, through the date of this Information Request;
 - f. Average Thoroughbred Diesel sale price;
 - g. Indicate if you advertised this product and provide the electronic file names of each advertisement (if applicable);
 - h. Identify whether the product affects or changes fuel delivery rate, timing of mixtures, diagnostics, turbo boost, or other engine parameters or calibrations.
 - i. Describe how the product differs from the stock components it replaces or specifically changes the stock configuration. You may provide owner's or installation manuals for a product in lieu of a narrative description if you identify the electronic names of the files.
 - j. Is the product sold with or without the following:
 - i. Tunes;
 - ii. Tunes from the EM product manufacturer;
 - iii. Tunes manufactured by you;
 - iv. Tunes manufactured by you sold without an EM product (i.e. calibration file only);
 - v. If no to i – iv, describe the product in detail.
 - k. If the product includes a tune manufactured by you provide the following:
 - i. The software used to develop the tune;
 - ii. The developer of the software; and
 - iii. A list of compatible EM products.
 - l. Does the product permanently or temporarily change, affect, or bypass a motor vehicle's emission related parts, including but not limited to the:
 - i. EGR;
 - ii. DPF;
 - iii. SCR;
 - iv. catalyst;
 - v. OBD; or

- vi. any sensors, signals, or records related to these systems;
 - m. Indicate whether the product modifies, interferes, or overrides the vehicles' OBD system;
 - n. Indicate whether the product replaces or overwrites an ECM;
 - o. Indicate whether, together with the addition, modification, or removal of a motor vehicle's parts, the product has the effect to permanently or temporarily change, affect, bypass, defeat, or render inoperative a motor vehicle emission control device or emission related part; and
 - p. Quantity company installed during the period September 1, 2018, through the date of this Information Request.
2. For each product identified in response to Request 1, indicate in Enclosure 6, worksheet 1 whether:
- a. the product is capable of disabling the EGR without illuminating a MIL or prompting any on-board DTC;
 - b. Thoroughbred Diesel has sold a version of the product that, upon installation and without post-sale modification of the product, disables or allows the end user to disable the EGR without illuminating a MIL or prompting any DTC;
 - c. the product is capable of disabling the EGR without any engine derating;
 - d. Thoroughbred Diesel has sold a version of the product that, upon installation and without post-sale modification of the product, disables or allows the end user to disable the EGR without any engine derating;
 - e. the product is capable of allowing the removal of the EGR without illuminating a MIL or prompting any on-board DTC;
 - f. Thoroughbred Diesel has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the EGR without illuminating a MIL or prompting any DTC;
 - g. the product is capable of allowing the removal of the EGR without any engine derating;
 - h. Thoroughbred Diesel has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the EGR without any engine derating;
 - i. the product is capable of allowing removal of a DPF without illuminating a MIL or prompting any DTC;
 - j. Thoroughbred Diesel has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the DPF without illuminating a MIL or prompting any DTC;
 - k. the product is capable of allowing removal of a DPF without any engine derating;
 - l. Thoroughbred Diesel has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a DPF without any engine derating;
 - m. the product is capable of disabling or allowing removal of a SCR system without illuminating a MIL or prompting any DTC;
 - n. Thoroughbred Diesel has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a SCR system without illuminating a MIL or prompting any DTC;
 - o. the product is capable of allowing removal of a SCR system without any engine derating;
 - p. Thoroughbred Diesel has sold a version of the product that, upon installation and without

- post-sale modification of the product, allows removal of a SCR system without any engine derating;
 - q. the product is capable of allowing removal of a catalyst without illuminating a MIL or prompting any DTC;
 - r. Thoroughbred Diesel has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a catalyst without illuminating a MIL or prompting any DTC;
 - s. the product is capable of allowing removal of a catalyst without any engine derating;
 - t. Thoroughbred Diesel has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a catalyst without any engine derating;
 - u. Thoroughbred Diesel has sold a version of the product that, upon installation and without post-sale modification of the product, alters fuel timing maps within engine electronic calibrations;
 - v. the product is capable of bypassing or altering parameters to prevent DTCs or MILs from being recorded or illuminated; and
 - w. Thoroughbred Diesel has sold a version of the product that, upon installation and without post-sale modification of the product, prevents DTCs or MILs from being recorded or illuminated.
3. For each product identified in response to Request 1 which Thoroughbred Diesel sold during the period September 1, 2018, through the date of this Information Request, provide all sales information using the format provided in Enclosure 6, worksheet 2. Thoroughbred Diesel may provide the requested information in an electronic spreadsheet exported from an invoice management program such as QuickBooks in lieu of using Enclosure 6, worksheet 2.
 4. Identify each exhaust product manufactured, sold, offered for sale, or installed during the period from September 1, 2018, through the date of this letter, in Enclosure 6, worksheet 3, and provide the:
 - a. Part Number, Item Code, or other unique identifier used by Thoroughbred Diesel;
 - b. Product name;
 - c. Product manufacturer (if different);
 - d. Identify the product's applications by vehicle type, make, model, and year;
 - e. Quantity Thoroughbred Diesel sold during the period September 1, 2018, through the date of this Information Request;
 - f. Average Thoroughbred Diesel sale price;
 - g. Indicate if you have advertised this product and provide electronic file names of each advertisement (if applicable);
 - h. Describe how the product differs from the stock components it replaces or specifically changes the stock configuration. You may provide owner's or installation manuals for a product in lieu of a narrative description if you identify the electronic names of the files.
 - i. Does the product permanently or temporarily changes, affects, or bypasses a motor vehicle's emission related parts, including but not limited to the:
 - i. EGR;
 - ii. DPF;
 - iii. SCR;

- iv. Catalyst;
 - v. OBD; or
 - vi. any sensors, signals, or records related to these systems;
 - j. Indicate whether, together with the addition, modification, or removal of a motor vehicle's parts, the product has the effect to permanently or temporarily change, affect, bypass, defeat, or render inoperative a motor vehicle emission control device or emission related part; and
 - k. Quantity Thoroughbred Diesel installed during the period September 1, 2018, through the date of this Information Request.
5. For each product identified in response to Request 4 which Thoroughbred Diesel sold during the period September 1, 2018, through the date of this Information Request, provide all sales information using the format provided in Enclosure 6, worksheet 4. Thoroughbred Diesel may provide the requested information in an electronic spreadsheet exported from an invoice management program such as QuickBooks in lieu of using Enclosure 6, worksheet 4.

Provide the following information in Enclosure 6, worksheet 5.

6. For products identified in response to Requests 1 and 4, state whether Thoroughbred Diesel or any other entity conducted tests measuring emissions of hydrocarbons, carbon monoxide, nitrogen oxides, or particulate matter, including tests that measure the impact of the product on motor vehicle emissions or that measure the impact of the product on a vehicle's emission control devices or elements of design. For each such test, provide the following information:
- a. a description of the test, including identification of the product and vehicle, the EPA engine family, name of the vehicle, test equipment, test protocols, and calibration procedures;
 - b. any training or instructional materials used for educating employees and affiliates about how to perform the test; and
 - c. the date and location of the test, the name and position of the person that conducted the test, and the test results.
7. For products that are identified in response to Requests 1 and 4:
- a. State whether Thoroughbred Diesel or any other entity submitted an application for an Executive Order to the California Air Resources Board;
 - i. if so, provide a copy of the application for each product.
 - b. State whether each product received an Executive Order exempting the product from California's emission control system anti-tampering law, California Vehicle Code § 27156.
 - c. If the product received an Executive Order, provide the Executive Order number; and
 - d. If the product received an Executive Order, state whether the California Air Resources Board required changes to the product or application to receive approval.

Provide the following information.

8. Provide a complete, unedited copy of every work order or service order and final bill for every vehicle serviced by Thoroughbred Diesel between September 1, 2018 and the date of this

request, including copies of all attachments.

9. For each product identified in response to Requests 1 and 4:
 - a. provide a detailed written description of all methods by which the product has been promoted or publicized by Thoroughbred Diesel, including but not limited to, print media, commercial websites, point-of-sale webpages, event promotion or sponsorship, trade show promotion, or social media promotion, including promotion dates and/or date ranges, if applicable;
 - b. provide copies of all advertisements for the product published in print or electronic media, including commercial websites, point-of-sale webpages, or social media;
 - c. provide a list of other entities known to have advertised the product; and
 - d. provide all manuals available (e.g., owner's and installation).
10. Provide a detailed, written description of Thoroughbred Diesel's business structure including ownership, corporate form, parent, sister and/or subsidiary companies, and affiliated organizations.
11. Provide the location of all warehouses or storage facilities where Thoroughbred Diesel stores products.

ENCLOSURE 5

STATEMENT OF CERTIFICATION

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001, 1341 and 1505.

(Signature)

(Printed Name)

(Title)

(Date)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

ATLANTA FEDERAL CENTER

61 FORSYTH STREET

ATLANTA, GEORGIA 30303-8960

SENT VIA ELECTRONIC MAIL

Justin Hildebrand, Owner
JH Diesel & 4x4
4220 Lorraine Road
Bradenton, Florida 34211
Justin@jhdiesel4x4.com

Re: Request for Information Pursuant to Section 208(a) of the Clean Air Act

Dear Mr. Hildebrand:

Pursuant to Section 208(a) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7542(a), you are hereby required to provide the U.S. Environmental Protection Agency with information relating to JH Diesel & 4x4, LLC (JHD) business. The EPA is seeking this information to determine whether JHD is in compliance with requirements of Sections 203(a) and 213(d) of the Act, 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable motor vehicle regulations at 40 C.F.R. Parts 85, 86, and 1068.

The EPA issues this Request for Information under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA, Title II, Part A – Motor Vehicle Emission and Fuel Standards, Sections 202 – 219, 42 U.S.C. §§ 7521-7554, to perform tests and provide information necessary to determine whether the person is acting or has acted in compliance with the CAA and the regulations promulgated thereunder. The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, Region 4.

Please review the following enclosures and complete as appropriate: Instructions (Enclosure 1), Definitions (Enclosure 2), Claiming Confidentiality (Enclosure 3), Request for Information (Enclosure 4), and Statement of Certification (Enclosure 5).

The requested information shall be submitted to the EPA electronically, per the instructions in Enclosure 1. The responses shall be submitted **no later than 15 calendar days** after JHD's receipt of this letter as determined by the date of the EPA's email transmitting this request unless the EPA, for good cause shown, extends in writing the deadline for responding to this request. This information must be submitted electronically to the following individual:

Ms. Aleeka Broner
Air Enforcement Branch
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303
Broner.Aleeka@epa.gov

Failure to provide the information required by this letter is a violation of the Act and may result in one or more of the following actions: (1) commencement of a civil action seeking compliance with this request pursuant to Section 204 of the Act, 42 U.S.C. § 7523; (2) issuance of an administrative penalty order pursuant to Section 205(c) of the Act, 42 U.S.C. § 7424(c); (3) commencement of a civil action in accordance with Section 205(b) of the Act, 42 U.S.C. § 7524(b); and/or (4) any other action authorized under the Act.

Under Section 208(c) of the Act, 42 U.S.C. § 7542(c), and pursuant to the regulations found at 40 C.F.R. Part 2, Subpart B, including 40 C.F.R. § 2.301, you are entitled to assert a claim of business confidentiality for any information you provide to the EPA which you regard as confidential business information (CBI). For such information, you may request that the EPA treat such information as confidential. Any such claim of confidentiality must conform to the requirements of 40 C.F.R. § 2.203(b). Note that “emission data,” as defined by 40 C.F.R. § 2.301(a)(2), cannot be claimed as confidential under Section 208(c) of the Act, 42 U.S.C. § 7542(c). For detailed instructions for claiming confidentiality, please see Enclosure 3. Information you supply under a claim of confidentiality will be treated in accordance with 40 C.F.R. Part 2, Subpart B, and will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to JHD. Please note that any confidentiality claim does not obviate the need to send that portion of the response to the EPA.

The response to the information requested must be accompanied by Enclosure 5, Statement of Certification, which is to be signed and dated by a responsible official of JHD. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this request that are known to you, following a complete and thorough review of all information and sources available to you.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 – 3520, because it seeks information from specific individuals or entities as part of an investigation.

If you have any questions regarding this matter, please contact Aleeka Broner at (404) 562-9186 or by email at broner.aleeka@epa.gov.

Sincerely,

Carol L. Kemker
Director
Enforcement and Compliance Assurance Division

Enclosures

ENCLOSURE 1

Instructions

1. Provide a separate response to each and every Request, and each and every subpart of a Request.
2. If the company has no responsive information or documents pertaining to a particular Request, submit an affirmative statement and explanation.
3. Indicate on each document produced, or in some other reasonable manner, the number of the Request to which it corresponds. If a document is responsive to more than one Request, this must be so indicated and only one (1) version of the document needs to be provided.
4. The company shall submit documents in Portable Document Format (PDF) or in any other electronic format as specified in Enclosure 4. Do not create separate PDF files for each page of a single document.
5. Where a Request requires the submission of an electronic spreadsheet, please provide the spreadsheet as an unlocked, Microsoft Excel file. If Excel format is not available, then the format should allow for data to be imported and used in calculations by a standard spreadsheet program such as Microsoft Excel.
6. Identify each person whom you relied on or consulted with in preparing your responses to each Request. Provide their name, title, job duties and duration of employment with the company. If they are not an employee of the company, identify their employer and provide their name, title, job duties and duration of employment with their employer.
7. If requested information or documents are not known or are not available to you at the time of your response to this information request, but later become known or available to you, you must supplement your response to the EPA within 30 calendar days of discovery of the responsive information. Moreover, should you find at any time after submission of your response that any portion is or becomes false, incomplete or misrepresents the facts, you must provide the EPA with a corrected response as soon as possible.
8. Please submit your response to this information request to the EPA electronically. You may submit your response using any of the following options: (A) As an attachment via email to Aleeka Broner at broner.aleeka@epa.gov; (B) by requesting a link from the EPA for a secure file transfer site where you may upload your response; or (C) as electronic files on a USB drive or CD sent by mail to: Aleeka Broner, Air Enforcement Branch, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303.
9. Please do not submit compressed files (.zip) via email. If you wish to submit compressed files please select option B or C above.
10. Please do not send documents that you have claimed as confidential business information (CBI) to the EPA over the internet (option A or B). If you are submitting documents that you have claimed as CBI please send them as electronic files on a USB drive or CD by mail (option C).

11. Prior to submitting your response, please send an email to Aleeka Broner at broner.aleeka@epa.gov indicating which option or combination of options (A, B, and/or C) you have selected to submit your response to this request.

ENCLOSURE 2

Definitions

1. The term “affiliated organization” or “affiliate” means any organization or entity associated with JH Diesel & 4x4, LLC, as an agent, parent organization, predecessor corporation, sister company, subsidiary organization, or any organization or entity acting in lieu of you.
2. The term “catalyst(s)” means systems or devices which increase the rate of a chemical reaction but are not one of the original reactants or final products, *i.e.*, the catalyst is not consumed or altered in the reaction. The term “catalyst(s)” includes emission control catalysts such as diesel oxidation catalysts, NO_x adsorber catalysts, and three-way catalysts.
3. The term “DPF” refers to diesel particulate filters, which are exhaust aftertreatment devices that typically use a porous ceramic or cordierite substrate or metallic filter to physically trap particulate matter and remove it from the exhaust stream.
4. The term “element of design” means any control system (e.g., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine, as defined in 40 C.F.R. §§ 86.094-2 and 86.1803-01.
5. The term “electronic control module” or “ECM” means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. The ECM uses software programming including calculations and tables of information to provide the appropriate outputs. Multiple electronic control modules may be incorporated in a single unit to control various engine, vehicle, or equipment functions.
6. The term “engine management product” or “EM product” means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information stored within or used by an ECM. EM products include, but are not limited to, programmers, modules, tuners, ECM calibration tools, replacement ECMs, flash tools, or engine management products.
7. The term “emission related parts” means those parts installed for the specific purpose of controlling emissions, or those components, systems, or elements of design which must function properly to assure continued vehicle emission compliance, as defined in 40 C.F.R. § 85.2102.
8. The term “engine tune,” “tune,” or “calibration” means any combination of software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information, stored in any form, capable of affecting or controlling an ECM.
9. The term “entity” means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization or association.
10. The term “exhaust product” means exhaust components designed for use downstream from the exhaust port of a motor vehicle engine, and include, but are not limited to turbochargers, EGR block plates, EGR delete kits, EGR reroute kits, EGR solution kits, aftermarket EGR coolers, exhaust replacement pipes, downpipe-back exhaust systems, turbo-back exhaust systems, race pipes, test

pipes and straight pipes.

11. The term “exhaust gas recirculation” or “EGR” means systems which redirect, usually by use of an EGR valve, a portion of engine exhaust back into the engine’s combustion chamber to cool and reduce peak combustion temperatures and pressures, thereby reducing the production of nitrogen oxides (“NOx”). The EGR system may include an EGR cooler to cool the recirculated exhaust to further reduce the combustion temperature.
12. The term “information” includes any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intraoffice communications, electronic mail (“email”), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting, or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, presentations, spreadsheets, and worksheets. The term “information” includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term “information” also includes any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back-up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. Information bearing any notation not part of the original text is considered to be separate information. A draft or non-identical copy is separate information within the meaning of this term.
13. The term “person” includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
14. The term “product” includes any software code, software, hardware, program, element of design, calibration, engine tune, EM product, device, part or component.
15. The term “you,” “your,” and “JHD” means JH Diesel & 4x4, LLC, and any affiliates, predecessors, successors, assignees, agents, employees, representatives, investigators, accountants, auditors, attorneys, experts, consultants, and contractors. These terms shall also mean any others who are not listed above and are in possession, custody, or control (actual or constructive) of information relevant to this request or information that is otherwise available to JH Diesel & 4x4, LLC, or who may have obtained information for or on behalf of JH Diesel & 4x4, LLC.
16. The term “service” means any action to change, affect, modify, bypass, render inoperative, remove, download and/or install one or more part(s) or component(s) (e.g., emission control components) or other item(s), including, but not limited to, engine parts, turbochargers, block plates, straight pipes, power packages, computer tuning, calibrations, elements of design, tuners, tunes, software, code, or

devices.

17. The term “SCR” refers to the selective catalytic reduction system, which is an exhaust aftertreatment device designed to reduce NO_x emissions by injecting a liquid reagent through a catalyst.

All terms not defined in this enclosure have their ordinary meaning, unless such terms are defined in the Clean Air Act and/or its implementing regulations, and in which case the statutory and/or regulatory definitions apply. Words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions. The terms “and” and “or” shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this information request any information which might otherwise be construed to be outside its scope.

ENCLOSURE 3

Confidential Business Information (CBI) Assertion and Substantiation Requirements

A. Assertion Requirements

You may assert a business confidentiality claim covering part or all of the information, other than emissions data and information or data that is otherwise publicly available, as described in 40 C.F.R. § 2.203(b). If no business confidentiality claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice. To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any information over which you make a claim of confidentiality should be marked by placing on or attaching to the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret” or “proprietary” or “business confidential” and a date if any when the information should no longer be treated as confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. Information covered by such a claim will be disclosed by the EPA only to the extent permitted and by means of the procedures set forth by Section 114(c) of the Act and 40 C.F.R. Part 2, Subpart B. The EPA will construe the failure to furnish a confidentiality claim with your response to the attached letter as a waiver of that claim, and the information may be made available to the public without further notice to you.

Please segregate personnel, medical and similar files from your responses and include that information on separate sheet(s) marked as “Personal Privacy Information” given that disclosure of such information to the general public may constitute an invasion of privacy.

B. Substantiation Requirements

All confidentiality claims are subject to EPA verification and must be made in accordance with 40 C.F.R. Part 2, Subpart B.¹ You bear the burden of substantiating your confidentiality claim and must satisfactorily show, among other things, that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so and that the information is not, and has not been, reasonably obtainable by legitimate means without your consent. Conclusory allegations will be given little or no weight.

Before the EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, the EPA will send you a letter asking you to substantiate fully your CBI claim by answering several questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. You must provide the EPA with a response within the number of days set forth

¹ 40 C.F.R. § 2.208(e) conflicts with the holding in *Food Marketing Institute v. Argus Leader Media*, 139 S. Ct. 2356, 2366 (2019) (*Argus Leader*). In light of the *Argus Leader* decision, the Agency will not consider 40 C.F.R. § 2.208(e) in this determination. The Agency anticipates amending 40 C.F.R. § 2.208 so that it is consistent with the decision in *Argus Leader*.

in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

The EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied.. For each item or class of information that you identify as being confidential, the EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in the EPA's determination:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
8. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.
9. If you believe any information to be (a) trade secret (s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret (s).
10. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data or effluent data).

Please note that emission data provided under Section 114 of the Act, 42 U.S.C. § 7414, is *not* entitled to confidential treatment under Section 114(c) of the Act, 42 U.S.C. § 7414(c) or 40 C.F.R. Part 2.

“Emission data” means, with reference to any source of emission of any substance into the air –

(A) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing;

(B) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and (C) a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source). 40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

Information designated confidential will be disclosed by EPA only to the extent allowed by, and by means of procedures set forth in, 40 C.F.R. Part 2, Subpart B. If you fail to claim the information as confidential, it may be made available to the public without further notice to you.

ENCLOSURE 4

Request for Information

JH Diesel & 4x4, LLC shall submit the following information to the EPA, pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, regarding certain parts or products that you either installed, serviced or sold between January 1, 2020, and March 1, 2020.

1. For the following service invoices, provide a narrative description of the work that was completed and identify which emission control components (i.e. EGR, DPF, SCR, and/or catalyst) were bypassed, defeated, removed, or rendered inoperative:
 - a. Invoice No. 2249;
 - b. Invoice No. 2256;
 - c. Invoice No. 2272;
 - d. Invoice No. 2278;
 - e. Invoice No. 2287;
 - f. Invoice No. 2291; and
 - g. Invoice No. 2294.
2. For the following parts, provide a narrative description of the part, the manufacturers part number, and provide copies of the itemized purchase receipts from the manufacturer, wholesaler, dealer, or retailer from which JHD purchased the products:
 - a. Invoice No. 2253; Part No. SERVICEKIT;
 - b. Invoice No. 2254; Part No. PIPE;
 - c. Invoice No. 2283; Part No. PIPE;
 - d. Invoice No. 2284; Part No. SERVICEKIT;
 - e. Invoice No. 2327; Part No. PIPE; and
 - f. Invoice No. 2347; Part No. SERVICEKIT.

ENCLOSURE 5

STATEMENT OF CERTIFICATION

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001, 1341 and 1505.

(Signature)

(Printed Name)

(Title)

(Date)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET SW
ATLANTA, GEORGIA 30303-8960

SENT VIA ELECTRONIC MAIL

AARodriguez Corp.
Angelica Rodriguez
Chief Executive Officer
203 White Park Drive, Unit G
Dallas, Georgia 30132
admin@tunemyeuro.com

Dear Ms. Rodriguez:

Pursuant to Section 208(a) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7542(a), you are hereby required to provide the U.S. Environmental Protection Agency with information relating to AARodriguez Corp. (AARC) business. The EPA is seeking this information to determine whether AARC is in compliance with requirements of Sections 203(a) and 213(d) of the Act, 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable motor vehicle regulations at 40 C.F.R. Parts 85, 86, and 1068.

The EPA issues this Request for Information under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA, Title II, Part A – Motor Vehicle Emission and Fuel Standards, Sections 202 – 219, 42 U.S.C. §§ 7521-7554, to perform tests and provide information necessary to determine whether the person is acting or has acted in compliance with the CAA and the regulations promulgated thereunder. The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, Region 4.

Please review the following enclosures and complete as appropriate: Instructions (Enclosure 1), Definitions (Enclosure 2), Claiming Confidentiality (Enclosure 3), Request for Information (Enclosure 4), Statement of Certification (Enclosure 5), and Response Excel Template (Enclosure 6).

The requested information shall be submitted to the EPA electronically, per the instructions in Enclosure 1. The responses shall be submitted **no later than 30 calendar days** after AARC's receipt of this letter as determined by the date of the EPA's electronic mail transmitting this request unless the EPA, for good cause shown, extends in writing the deadline for responding to this request. This information must be submitted electronically to the following individual:

Ms. Aleeka Broner
Air Enforcement Branch
Enforcement and Compliance Assurance Division
U.S. EPA, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303
broner.aleeka@epa.gov

Internet Address (URL) <http://www.epa.gov>

Failure to provide the information required by this letter is a violation of the Act and may result in one or more of the following actions: (1) commencement of a civil action seeking compliance with this request pursuant to Section 204 of the Act, 42 U.S.C. § 7523; (2) issuance of an administrative penalty order pursuant to Section 205(c) of the Act, 42 U.S.C. § 7424(c); (3) commencement of a civil action in accordance with Section 205(b) of the Act, 42 U.S.C. § 7524(b); and/or (4) any other action authorized under the Act.

Under Section 208(c) of the Act, 42 U.S.C. § 7542(c), and pursuant to the regulations found at 40 C.F.R. Part 2, Subpart B, including 40 C.F.R. § 2.301, you are entitled to assert a claim of business confidentiality for any information you provide to the EPA which you regard as confidential business information (CBI). For such information, you may request that the EPA treat such information as confidential. Any such claim of confidentiality must conform to the requirements of 40 C.F.R. § 2.203(b). Note that “emission data,” as defined by 40 C.F.R. § 2.301(a)(2), cannot be claimed as confidential under Section 208(c) of the Act, 42 U.S.C. § 7542(c). For detailed instructions for claiming confidentiality, please see Enclosure 3. Information you supply under a claim of confidentiality will be treated in accordance with 40 C.F.R. Part 2, Subpart B, and will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to AARC. Please note that any confidentiality claim does not obviate the need to send that portion of the response to the EPA.

The response to the information requested must be accompanied by Enclosure 5, Statement of Certification, which is to be signed and dated by a responsible official of AARC. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this request that are known to you, following a complete and thorough review of all information and sources available to you.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 – 3520, because it seeks information from specific individuals or entities as part of an investigation.

If you have any questions regarding this matter, please contact Ms. Aleeka Broner at (404) 562-9186 or by electronic mail at broner.aleeka@epa.gov.

Sincerely,

Carol L. Kemker
Director
Enforcement and Compliance Assurance Division

Enclosures

ENCLOSURE 1

Instructions

1. Provide a separate response to each Request set forth in Enclosure 4.
2. Indicate on each document produced, or in some other reasonable manner, the number of the Request to which it corresponds. If a document is responsive to more than one Request, this must be so indicated and only one (1) version of the document needs to be provided.
3. The company shall submit documents in Portable Document Format (PDF) or in any other electronic format as specified in Enclosure 4. Do not create separate PDF files for each page of a single document.
4. Please provide your responses to Requests 1 through 7 in an unlocked, electronic spreadsheet format. For your convenience, the EPA has provided Enclosure 6 which consists of an Excel template in which you are requested to organize your responses to Requests 1 through 7. If Excel format is not available, then the format should allow for data to be imported and used in calculations by a standard spreadsheet program such as Excel.
5. Identify each person whom you relied on or consulted with in preparing your responses to each question of this information request. Provide their name, title, job duties, and duration of employment with the company. If they are not an employee of the company, identify their employer and provide their name, title, job duties, and duration of employment with their employer.
6. If requested information or documents are not known or are not available to you at the time of your response to this information request, but later become known or available to you, you must supplement your response to the EPA within 30 calendar days of discovery of the responsive information. Moreover, should you find at any time after your submission of your response that any portion is or becomes false, incomplete, or misrepresents the facts, you must provide the EPA with a corrected response as soon as possible.
7. Please submit your response to this Request to the EPA electronically. You may submit your response using any of the following options: A.) via email to Ms. Aleeka Broner at broner.aleeka@epa.gov; B.) by requesting a link from the EPA for a secure file transfer site where you may upload your response; or C.) as electronic files on a USB drive or CD sent by mail to: Ms. Aleeka Broner, Air Enforcement Branch, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia, 30303.
8. Please do not send compressed files (.zip) via email. If you wish to submit compressed files, please select option B or C above.
9. Please do not send documents that you have claimed as confidential business information (CBI) to the EPA via email. If you have documents that you have claimed as CBI to submit, please select option B or C above.

ENCLOSURE 2

Definitions

1. The term “affiliated organization” or “affiliate” means any organization or entity associated with AARodriguez Corp., as an agent, parent organization, predecessor corporation, sister company, subsidiary organization, or any organization or entity acting in lieu of you, including but not limited to: TuneMyEuro by AARodriguez and the website www.tunemyeuro.com
2. The term “applications” means all vehicle or engine configurations.
3. The term “catalyst(s)” means systems or devices which increase the rate of a chemical reaction but are not one of the original reactants or final products, *i.e.*, the catalyst is not consumed or altered in the reaction. The term “catalyst(s)” includes emission control catalysts such as diesel oxidation catalysts (“DOCs”), NO_x adsorber catalysts (“NACs”), and three-way catalysts (“TWCs”).
4. The term “derate” or “derating” means an electronic control module mode that reduces the engine power or vehicle speed after the OBD system identifies a problem with the emission control equipment.
5. The term “DPF” refers to diesel particulate filters, which are exhaust aftertreatment devices that typically use a porous ceramic or cordierite substrate or metallic filter to physically trap particulate matter (“PM”) and remove it from the exhaust stream.
6. The term “element of design” means any control system (e.g., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine, as defined in 40 C.F.R. §§ 86.094-2 and 86.1803-01.
7. The term “electronic control module” or “ECM” means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. The ECM uses software programming including calculations and tables of information to provide the appropriate outputs. Multiple electronic control modules may be incorporated in a single unit to control various engine, vehicle, or equipment functions. ECM can be a generic term but may refer specifically to the engine control module when discussing emission controls on vehicles and engines. Examples of electronic control modules include, but are not limited to, the Engine Control Module, OBD Control Modules, Powertrain Control Module (“PCM”), Transmission Control Module (“TCM”), Body Control Module (“BCM”) and aftertreatment control module.
8. The term “engine management product” or “EM product” means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information stored within or used by an ECM. EM products include, but are not limited to, programmers, modules, tuners, ECM calibration tools, replacement ECMs, flash tools, or engine management products.
9. The term “emission related parts” means those parts installed for the specific purpose of controlling emissions, or those components, systems, or elements of design which must function properly to assure continued vehicle emission compliance, as defined in 40 C.F.R. § 85.2102.

10. The term “engine tune,” “tune,” or “calibration” means any combination of software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information, stored in any form, capable of affecting or controlling an ECM.
11. The term “entity” means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization or association.
12. The term “exhaust product” means exhaust components designed for use downstream from the exhaust port of a motor vehicle engine, and include, but are not limited to EGR block plates, EGR delete kits, exhaust replacement pipes, downpipe-back exhaust systems, turbo-back exhaust systems, race pipes, and straight pipes.
13. The term “exhaust gas recirculation” or “EGR” means systems which redirect, usually by use of an EGR valve, a portion of engine exhaust back into the engine’s combustion chamber to cool and reduce peak combustion temperatures and pressures, thereby reducing the production of nitrogen oxides (“NOx”). The EGR system may include an EGR cooler to cool the recirculated exhaust to further reduce the combustion temperature.
14. The term “information” includes any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intraoffice communications, electronic mail (“email”), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting, or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, presentations, spreadsheets, and worksheets. The term “information” includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term “information” also includes any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back-up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. Information bearing any notation not part of the original text is considered to be separate information. A draft or non-identical copy is separate information within the meaning of this term.
15. The term “manufacture” includes the creation, design, development, alteration, fabrication, production, or programming of a software code, software, hardware, program, element of design, calibration, engine tune, EM product, engine tuner, device, part, or component.

16. The term “onboard diagnostics” or “OBD” means systems which monitor components’ emission-related systems and assists repair technicians in diagnosing and fixing problems with those emission-related systems. If a problem is detected, an OBD system should record a Diagnostic Trouble Code (“DTC”), illuminate a Malfunction Indicator Light (“MIL”) or other warning lamp on the vehicle instrument panel, and/or provide information to the ECM which induces Engine Derate due to malfunctioning or missing emission-related systems.
17. The term “person” includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
18. The term “product” includes any software code, software, hardware, program, element of design, calibration, engine tune, EM product, device, part or component.
19. The term “you,” “your,” and “AARC” means AARodriguez Corp., and any affiliates, including but not limited to: TuneMyEuro by AARodriguez and the website www.tunemyeuro.com, predecessors, successors, assignees, agents, employees, representatives, investigators, accountants, auditors, attorneys, experts, consultants, and contractors. These terms shall also mean any others who are not listed above and are in possession, custody, or control (actual or constructive) of information relevant to this request or information that is otherwise available to AARodriguez Corp., or who may have obtained information for or on behalf of AARodriguez Corp.
20. The term “SCR” refers to the selective catalytic reduction system, which is an exhaust aftertreatment device designed to reduce NOx emissions by injecting a liquid reagent through a catalyst.
21. The term “service” means any action to change, affect, modify, bypass, render inoperative, remove, download and/or install one or more part(s) or component(s) (*e.g.*, emission control components) or other item(s), including, but not limited to, engine parts, turbochargers, block plates, straight pipes, power packages, computer tuning, calibrations, elements of design, tuners, tunes, software, code, or devices.

All terms not defined in this enclosure have their ordinary meaning, unless such terms are defined in the Clean Air Act and/or its implementing regulations, and in which case the statutory and/or regulatory definitions apply. Words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions. The terms “and” and “or” shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this information request any information which might otherwise be construed to be outside its scope.

ENCLOSURE 3

Confidential Business Information (CBI) Assertion and Substantiation Requirements

A. Assertion Requirements

You may assert a business confidentiality claim covering part or all of the information, other than emissions data and information or data that is otherwise publicly available, as described in 40 C.F.R. § 2.203(b). If no business confidentiality claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice. To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any information over which you make a claim of confidentiality should be marked by placing on or attaching to the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret” or “proprietary” or “business confidential” and a date if any when the information should no longer be treated as confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. Information covered by such a claim will be disclosed by the EPA only to the extent permitted and by means of the procedures set forth by Section 114(c) of the Act, and 40 C.F.R. Part 2, Subpart B. The EPA will construe the failure to furnish a confidentiality claim with your response to the attached letter as a waiver of that claim, and the information may be made available to the public without further notice to you.

Please segregate personnel, medical and similar files from your responses and include that information on separate sheet(s) marked as “Personal Privacy Information” given that disclosure of such information to the general public may constitute an invasion of privacy.

B. Substantiation Requirements

All confidentiality claims are subject to EPA verification and must be made in accordance with 40 C.F.R. Part 2, Subpart B.¹ You bear the burden of substantiating your confidentiality claim and must satisfactorily show, among other things, that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so and that the information is not, and has not been, reasonably obtainable by legitimate means without your consent. Conclusory allegations will be given little or no weight.

Before the EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, the EPA will send you a letter asking you to substantiate fully your CBI claim by answering several questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. You must provide the EPA with a response within the number of days set forth in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

¹ 40 C.F.R. § 2.208(e) conflicts with the holding in *Food Marketing Institute v. Argus Leader Media*, 139 S. Ct. 2356, 2366 (2019) (*Argus Leader*). In light of the *Argus Leader* decision, the Agency will not consider 40 C.F.R. § 2.208(e) in this determination. The Agency anticipates amending 40 C.F.R. § 2.208 so that it is consistent with the decision in *Argus Leader*.

The EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied.. For each item or class of information that you identify as being confidential, the EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in the EPA's determination:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
8. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.
9. If you believe any information to be (a) trade secret (s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret (s).
10. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data or effluent data).

Please note that emission data provided under Section 208 of the Act, 42 U.S.C. § 7542, is *not* entitled to confidential treatment under Section 208(c) of the Act, 42 U.S.C. § 7542(c) or 40 C.F.R. Part 2.

“Emission data” means, with reference to any source of emission of any substance into the air - (A) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing; (B) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and (C) a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source). 40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

Information designated confidential will be disclosed by EPA only to the extent allowed by, and by means of procedures set forth in, 40 C.F.R. Part 2, Subpart B. If you fail to claim the information as confidential, it may be made available to the public without further notice to you.

ENCLOSURE 4

Request for Information

AARodriguez Corp., shall submit the following information to the EPA, pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, regarding certain parts or components that you either manufactured (i.e., created, wrote, programmed, fabricated, produced, or modified), offered for sale, sold, or installed between March 1, 2019 and March 1, 2020.

Provide the response for Requests 1 and 2 in Enclosure 6, worksheet 1.

1. Identify each EM product AARC manufactured, sold, offered for sale, or installed during the period from March 1, 2019 through March 1, 2020, in Enclosure 6, worksheet 1, and provide the:
 - a. Part Number, Item Code, or other unique identifier used by AARC;
 - b. Product name;
 - c. Product manufacturer (if different);
 - d. Identify the product's applications by vehicle type, make, model, and year;
 - e. Quantity AARC sold during the period from March 1, 2019 through March 1, 2020;
 - f. Average AARC sale price;
 - g. Identify whether the product affects or changes fuel delivery rate, timing of mixtures, diagnostics, turbo boost, or other engine parameters or calibrations;
 - h. Describe how the product differs from the stock components it replaces or specifically changes the stock configuration. You may provide owner's or installation manuals for a product in lieu of a narrative description if you identify the electronic names of the files;
 - i. Is the product sold with or without the following:
 - i. Tunes;
 - ii. Tunes from the EM product manufacturer;
 - iii. Tunes manufactured by you;
 - iv. Tunes manufactured by you sold without an EM product (i.e. calibration file only); or
 - v. If no to i – iv, describe the product in detail.
 - j. If the product includes a tune manufactured by you provide the following:
 - i. The software used to develop the tune;
 - ii. The developer of the software; and
 - iii. A list of compatible EM products.
 - k. Does the product permanently or temporarily change, affect, or bypass a motor vehicle's emission related parts, including but not limited to the:
 - i. EGR;
 - ii. DPF;
 - iii. SCR;
 - iv. catalyst;
 - v. OBD; or
 - vi. any sensors, signals, or records related to these systems;
 - l. Indicate whether the product modifies, interferes, or overrides the vehicles' OBD system;
 - m. Indicate whether the product replaces or overwrites an ECM;
 - n. Indicate whether, together with the addition, modification, or removal of a motor vehicle's parts, the product has the effect to permanently or temporarily change, affect, bypass, defeat, or render inoperative a motor vehicle emission control device or emission

- related part; and
- o. Quantity company installed during the period from March 1, 2019 through March 1, 2020.
2. For each product identified in response to Request 1, indicate in Enclosure 6, worksheet 1 whether:
- a. the product is capable of disabling the EGR without illuminating a MIL or prompting any on-board DTC;
 - b. AARC has sold a version of the product that, upon installation and without post-sale modification of the product, disables or allows the end user to disable the EGR without illuminating a MIL or prompting any DTC;
 - c. the product is capable of disabling the EGR without any engine derating;
 - d. AARC has sold a version of the product that, upon installation and without post-sale modification of the product, disables or allows the end user to disable the EGR without any engine derating;
 - e. the product is capable of allowing the removal of the EGR without illuminating a MIL or prompting any on-board DTC;
 - f. AARC has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the EGR without illuminating a MIL or prompting any DTC;
 - g. the product is capable of allowing the removal of the EGR without any engine derating;
 - h. AARC has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the EGR without any engine derating;
 - i. the product is capable of allowing removal of a DPF without illuminating a MIL or prompting any DTC;
 - j. AARC has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the DPF without illuminating a MIL or prompting any DTC;
 - k. the product is capable of allowing removal of a DPF without any engine derating;
 - l. AARC has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a DPF without any engine derating;
 - m. the product is capable of disabling or allowing removal of a SCR system without illuminating a MIL or prompting any DTC;
 - n. AARC has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a SCR system without illuminating a MIL or prompting any DTC;
 - o. the product is capable of allowing removal of a SCR system without any engine derating;
 - p. AARC has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a SCR system without any engine derating;
 - q. the product is capable of allowing removal of a catalyst without illuminating a MIL or prompting any DTC;
 - r. AARC has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a catalyst without illuminating a MIL or prompting any DTC;
 - s. the product is capable of allowing removal of a catalyst without any engine derating;
 - t. AARC has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a catalyst without any engine derating;

- u. AARC has sold a version of the product that, upon installation and without post-sale modification of the product, alters fuel timing maps within engine electronic calibrations;
 - v. the product is capable of bypassing or altering parameters to prevent DTCs or MILs from being recorded or illuminated; and
 - w. AARC has sold a version of the product that, upon installation and without post-sale modification of the product, prevents DTCs or MILs from being recorded or illuminated.
3. For each product identified in response to Request 1 which AARC sold during the period from March 1, 2019 through March 1, 2020, provide all sales information using the format provided in Enclosure 6, worksheet 2. AARC may provide the requested information in an electronic spreadsheet exported from an invoice management program such as QuickBooks in lieu of using Enclosure 6, worksheet 2.
 4. Identify each exhaust product manufactured, sold, offered for sale, or installed during the period from March 1, 2019 through March 1, 2020, in Enclosure 6, worksheet 3, and provide the:
 - a. Part Number, Item Code, or other unique identifier used by AARC;
 - b. Product name;
 - c. Product manufacturer;
 - d. Identify the product's applications by vehicle type, make, model, and year;
 - e. Quantity AARC sold during the period from March 1, 2019 through March 1, 2020;
 - f. Average AARC sale price;
 - g. Indicate if you have advertised this product and provide the electronic file name or URL of each advertisement (if applicable);
 - h. Describe how the product differs from the stock components it replaces or specifically changes the stock configuration. You may provide owner's or installation manuals for a product in lieu of a narrative description if you identify the electronic names of the files;
 - i. Does the product permanently or temporarily bypass a motor vehicle's emission related parts, including but not limited to the:
 - i. EGR;
 - ii. DPF;
 - iii. SCR;
 - iv. Catalyst;
 - v. OBD; or
 - vi. any sensors, signals, or records related to these systems;
 - j. Indicate whether, together with the addition, modification, or removal of a motor vehicle's parts, the product has the effect to permanently or temporarily change, affect, bypass, defeat, or render inoperative a motor vehicle emission control device or emission related part; and
 - k. Quantity AARC installed during the period from March 1, 2019 through March 1, 2020.
 5. For each product identified in response to Request 4 which AARC sold during the period from March 1, 2019 through March 1, 2020, provide all sales information using the format provided in Enclosure 6, worksheet 4. AARC may provide the requested information in an electronic spreadsheet exported from an invoice management program such as QuickBooks in lieu of using Enclosure 6, worksheet 4.

Provide the following information in Enclosure 6, worksheet 5.

6. For products identified in response to Requests 1 and 4, state whether AARC or any other entity conducted tests measuring emissions of hydrocarbons, carbon monoxide, nitrogen oxides, or particulate matter, including tests that measure the impact of the product on motor vehicle emissions or that measure the impact of the product on a vehicle's emission control devices or elements of design. For each such test, provide the following information:
 - a. a description of the test, including identification of the product and vehicle, the EPA engine family, name of the vehicle, test equipment, test protocols, and calibration procedures;
 - b. any training or instructional materials used for educating employees and affiliates about how to perform the test; and
 - c. the date and location of the test, the name and position of the person that conducted the test, and the test results.
7. For products that are identified in response to Requests 1 and 4:
 - a. State whether AARC or any other entity submitted an application for an Executive Order to the California Air Resources Board;
 - i. if so, provide a copy of the application for each product.
 - b. State whether each product received an Executive Order exempting the product from California's emission control system anti-tampering law, California Vehicle Code § 27156.
 - c. If the product received an Executive Order, provide the Executive Order number; and
 - d. If the product received an Executive Order, state whether the California Air Resources Board required changes to the product or application to receive approval.

Provide the following information.

8. Provide a complete, unedited copy of each service invoice for every vehicle serviced by AARC between March 1, 2019 through March 1, 2020, including copies of all attachments.
9. Provide a detailed, written description of AARC's business structure including ownership, corporate form, parent, sister and/or subsidiary companies, and affiliated organizations.
10. Provide the location of all warehouses or storage facilities where AARC stores products.
11. Provide the name, address, telephone number, uniform resource locator (URL) and email address for any manufacturer, wholesaler, dealer, or retailer from whom AARC has purchased engine management products, exhaust products, and/or tunes between March 1, 2019 through March 1, 2020.
12. Provide the name and URL of all internet websites, stores (including Amazon and eBay stores) and/or platforms where AARC has sold or offered to sell engine management products, exhaust products, and/or tunes between March 1, 2019 through March 1, 2020.

ENCLOSURE 5

STATEMENT OF CERTIFICATION

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001, 1341 and 1505.

(Signature)

(Printed Name)

(Title)

(Date)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

SENT VIA ELECTRONIC MAIL

Justin Hildebrand, Owner
JH Diesel & 4x4
4220 Lorraine Road
Bradenton, Florida 34211
justin@jhdiesel4x4.com

Dear Mr. Hildebrand:

Pursuant to Section 208(a) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7542(a), you are hereby required to provide the U.S. Environmental Protection Agency with information relating to JH Diesel & 4x4, LLC's (JHD) business. The EPA is seeking this information to determine whether JHD is in compliance with requirements of Sections 203(a) and 213(d) of the Act, 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable motor vehicle regulations at 40 C.F.R. Parts 85, 86, and 1068.

The EPA issues this Request for Information under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA, Title II, Part A – Motor Vehicle Emission and Fuel Standards, Sections 202 – 219, 42 U.S.C. §§ 7521-7554, to perform tests and provide information necessary to determine whether the person is acting or has acted in compliance with the CAA and the regulations promulgated thereunder. The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, Region 4.

Please review the following enclosures and complete as appropriate: Instructions (Enclosure 1), Definitions (Enclosure 2), Claiming Confidentiality (Enclosure 3), Request for Information (Enclosure 4), Statement of Certification (Enclosure 5), and Service Performed Spreadsheet (Enclosure 6).

The requested information shall be submitted to the EPA electronically, per the instructions in Enclosure 1. The responses shall be submitted **no later than 30 calendar days** after JHD's receipt of this letter as determined by the date of the EPA's email transmitting this request. This information must be submitted electronically to the following individual:

Aleeka Broner
Air Enforcement Branch
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303
broner.aleeka@epa.gov

Failure to provide the information required by this letter is a violation of the Act and may result in one or more of the following actions: (1) commencement of a civil action seeking compliance with this request pursuant to Section 204 of the Act, 42 U.S.C. § 7523; (2) issuance of an administrative penalty order pursuant to Section 205(c) of the Act, 42 U.S.C. § 7424(c); (3) commencement of a civil action in accordance with Section 205(b) of the Act, 42 U.S.C. § 7524(b); and/or (4) any other action authorized under the Act.

Under Section 208(c) of the Act, 42 U.S.C. § 7542(c), and pursuant to the regulations found at 40 C.F.R. Part 2, Subpart B, including 40 C.F.R. § 2.301, you are entitled to assert a claim of business confidentiality for any information you provide to the EPA which you regard as confidential business information (CBI). For such information, you may request that the EPA treat such information as confidential. Any such claim of confidentiality must conform to the requirements of 40 C.F.R. § 2.203(b). Note that “emission data,” as defined by 40 C.F.R. § 2.301(a)(2), cannot be claimed as confidential under Section 208(c) of the Act, 42 U.S.C. § 7542(c). For detailed instructions for claiming confidentiality, please see Enclosure 3. Information you supply under a claim of confidentiality will be treated in accordance with 40 C.F.R. Part 2, Subpart B, and will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to JHD. Please note that any confidentiality claim does not obviate the need to send that portion of the response to the EPA.

The response to the information requested must be accompanied by Enclosure 5, Statement of Certification, which is to be signed and dated by a responsible official of JHD. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this request that are known to you, following a complete and thorough review of all information and sources available to you.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 – 3520, because it seeks information from specific individuals or entities as part of an investigation.

If you have any questions regarding this matter, please contact Aleeka Broner at (404) 562-9186 or by email at broner.aleeka@epa.gov.

Sincerely,

Carol L. Kemker
Director
Enforcement and Compliance Assurance Division

Enclosures

ENCLOSURE 1

Instructions

1. If the company has no responsive information or documents pertaining to a particular question, submit an affirmative statement and explanation.
2. You must identify the filename or document title. Make sure to correlate each document(s) to a specific question in the request. If a document is responsive to more than one question, this must be so indicated and only one (1) version of the document needs to be provided.
3. The company shall submit documents in .pdf format or in any other electronic format as specified in Enclosure 4. Do not create separate .pdf files for each page of a single document.
4. Please provide your responses to Requests 2 and 3 in an unlocked, electronic spreadsheet format. For your convenience, the EPA has provided Enclosure 6 which consists of an Excel template in which you are requested to organize your responses to Requests 2 and 3. If Excel format is not available, then the format should allow for data to be imported and used in calculations by a standard spreadsheet program such as Excel.
5. Identify each person whom you relied on or consulted with in preparing your responses to each question of this information request. Provide their name, title, job duties and duration of employment with the company. If they are not an employee of the company, identify their employer and provide their name, title, job duties and duration of employment with their employer.
6. Identify each document consulted, examined, or referred to in the preparation of your response or that contains information responsive to the question, and provide a true and correct copy of each such document if not provided in response to another specific question. Indicate on each document produced in response to this information request the number of the question to which it corresponds.
7. If requested information or documents are not known or are not available to you at the time of your response to this information request, but later become known or available to you, you must supplement your response to the EPA within 30 calendar days of discovery of the responsive information. Moreover, should you find at any time after submission of your response that any portion is or becomes false, incomplete or misrepresents the facts, you must provide the EPA with a corrected response as soon as possible.
8. Provide a separate response to each and every question, and each and every subpart of a question.
9. Please submit your responses to this request to the EPA electronically. You may submit your response by either a.) email to broner.aleeka@epa.gov, or b.) requesting a link from the EPA for a secure file transfer site where you may upload documents. Please note, the EPA cannot receive .zip files via email. If you wish to submit a file in .zip format please select option b. above.
10. Please do not send documents that you have claimed as confidential business information (CBI) to the EPA over the internet. If you have documents that you have claimed as CBI to submit please send them as electronic files on a USB drive or CD by mail to: Aleeka Broner, Air Enforcement Branch, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

ENCLOSURE 2

Definitions

1. The term “affiliated organization” or “affiliate” means any organization or entity associated with JH Diesel & 4x4, LLC, as an agent, parent organization, predecessor corporation, sister company, subsidiary organization, or any organization or entity acting in lieu of you.
2. The term “catalyst(s)” means systems or devices which increase the rate of a chemical reaction but are not one of the original reactants or final products, *i.e.*, the catalyst is not consumed or altered in the reaction. The term “catalyst(s)” includes emission control catalysts such as diesel oxidation catalysts (“DOCs”), NO_x adsorber catalysts (“NACs”), and three-way catalysts (“TWCs”).
3. The term “DPF” refers to diesel particulate filters, which are exhaust aftertreatment devices that typically use a porous ceramic or cordierite substrate or metallic filter to physically trap particulate matter (“PM”) and remove it from the exhaust stream.
4. The term “element of design” means any control system (e.g., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine, as defined in 40 C.F.R. §§ 86.094-2 and 86.1803-01.
5. The term “electronic control module” or “ECM” means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. The ECM uses software programming including calculations and tables of information to provide the appropriate outputs. Multiple electronic control modules may be incorporated in a single unit to control various engine, vehicle, or equipment functions.
6. The term “engine management product” or “EM product” means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information stored within or used by an ECM. EM products include, but are not limited to, programmers, modules, tuners, ECM calibration tools, replacement ECMs, flash tools, or engine management products.
7. The term “emission related parts” means those parts installed for the specific purpose of controlling emissions, or those components, systems, or elements of design which must function properly to assure continued vehicle emission compliance, as defined in 40 C.F.R. § 85.2102.
8. The term “engine tune,” “tune,” or “calibration” means any combination of software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information, stored in any form, capable of affecting or controlling an ECM.
9. The term “entity” means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization or association.

10. The term “exhaust product” means exhaust components designed for use downstream from the exhaust port of a motor vehicle engine, and include, but are not limited to turbochargers, EGR block plates, EGR delete kits, EGR reroute kits, EGR solution kits, aftermarket EGR coolers, exhaust replacement pipes, downpipe-back exhaust systems, turbo-back exhaust systems, race pipes, test pipes and straight pipes.
11. The term “exhaust gas recirculation” or “EGR” means systems which redirect, usually by use of an EGR valve, a portion of engine exhaust back into the engine’s combustion chamber to cool and reduce peak combustion temperatures and pressures, thereby reducing the production of nitrogen oxides (“NOx”). The EGR system may include an EGR cooler to cool the recirculated exhaust to further reduce the combustion temperature.
12. The term “information” includes any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intraoffice communications, electronic mail (“email”), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting, or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, presentations, spreadsheets, and worksheets. The term “information” includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term “information” also includes any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back-up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. Information bearing any notation not part of the original text is considered to be separate information. A draft or non-identical copy is separate information within the meaning of this term.
13. The term “person” includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
14. The term “product” includes any software code, software, hardware, program, element of design, calibration, engine tune, EM product, device, part or component.
15. The term “you,” “your,” and “JHD” means JH Diesel & 4x4, LLC, and any affiliates, predecessors, successors, assignees, agents, employees, representatives, investigators, accountants, auditors, attorneys, experts, consultants, and contractors. These terms shall also mean any others who are not listed above and are in possession, custody, or control (actual or constructive) of information relevant to this request or information that is otherwise available to JH Diesel & 4x4, LLC, or who may have obtained information for or on behalf of JH Diesel & 4x4, LLC.

16. The term “SCR” refers to the selective catalytic reduction system, which is an exhaust aftertreatment device designed to reduce NO_x emissions by injecting a liquid reagent through a catalyst.
17. The term “service” means any action to change, affect, modify, bypass, render inoperative, remove, download and/or install one or more part(s) or component(s) (*e.g.*, emission control components) or other item(s), including, but not limited to, engine parts, turbochargers, block plates, straight pipes, power packages, computer tuning, calibrations, elements of design, tuners, tunes, software, code, or devices.

All terms not defined in this enclosure have their ordinary meaning, unless such terms are defined in the Clean Air Act and/or its implementing regulations, and in which case the statutory and/or regulatory definitions apply. Words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions. The terms “and” and “or” shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this information request any information which might otherwise be construed to be outside its scope.

ENCLOSURE 3

Confidential Business Information (CBI) Assertion and Substantiation Requirements

A. Assertion Requirements

You may assert a business confidentiality claim covering part or all of the information, other than emissions data and information or data that is otherwise publicly available, as described in 40 C.F.R. § 2.203(b). If no business confidentiality claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice. To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any information over which you make a claim of confidentiality should be marked by placing on or attaching to the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret” or “proprietary” or “business confidential” and a date if any when the information should no longer be treated as confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. Information covered by such a claim will be disclosed by the EPA only to the extent permitted and by means of the procedures set forth by Section 208(c) of the Act, and 40 C.F.R. Part 2, Subpart B.

B. Substantiation Requirements

All confidentiality claims are subject to the EPA verification and must be made in accordance with 40 C.F.R. Part 2, Subpart B. You bear the burden of substantiating your confidentiality claim and must satisfactorily show that disclosure of the information would be likely to cause substantial harm to your business’ competitive position; that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; and that the information is not and has not been reasonably obtainable by legitimate means without your consent, among other things. Conclusory allegations will be given little or no weight.

Before the EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, the EPA will send you a letter asking you to substantiate fully your CBI claim by answering 11 questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. You must provide the EPA with a response within the number of days set forth in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

The EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied. Any information not specifically identified as subject to a confidentiality claim may be disclosed without further notice to you. For each item or class of information that you identify as being confidential, the EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in the EPA’s determination:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. For each item or category of information claimed as confidential, explain with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
8. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
9. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.
10. If you believe any information to be (a) trade secret (s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret (s).
11. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data).

Please note that emission data provided under Section 208 of the Act, 42 U.S.C. § 7542, is not entitled to confidential treatment under 40 C.F.R. Part 2. "Emission data" means, with reference to any source of emission of any substance into the air - (A) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing; (B) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions

which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and (C) a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

ENCLOSURE 4

Request for Information

JH Diesel & 4x4, LLC shall submit the following information to the EPA, pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, regarding certain parts or products that you either installed, serviced or sold between January 1, 2020, and March 1, 2020. For Requests 2 and 3, please submit your response using the Excel template provided as Enclosure 6, Service Performed Spreadsheet.

1. Provide a complete, unedited copy of every service invoice for each vehicle serviced by JHD between January 1, 2020, and March 1, 2020, including copies of all attachments.
2. For each service invoice provided in response to Request 1, identify the make, model, and year of the vehicle serviced, if it is not already stated on the invoice.
3. For each service invoice provided in response to Request 1, identify if the service provided bypassed, defeated, removed, or rendered inoperative the EGR, DPF, SCR, and/or catalyst.
4. Provide copies of invoices for all engine management products and exhaust products sold by JHD between January 1, 2020, and March 1, 2020.

ENCLOSURE 5

STATEMENT OF CERTIFICATION

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001, 1341 and 1505.

(Signature)

(Printed Name)

(Title)

(Date)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

SENT VIA ELECTRONIC MAIL

Matthew Hussey, Owner
Promaster Automotive, Inc.
166 Co Road 623
Enterprise, Alabama 36330
promasterauto1@yahoo.com

Dear Mr. Hussey:

Pursuant to Section 208(a) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7542(a), you are hereby required to provide the U.S. Environmental Protection Agency with information relating to Promaster Automotive, Inc.'s (Promaster) business. The EPA is seeking this information to determine whether Promaster is in compliance with requirements of Sections 203(a) and 213(d) of the Act, 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable motor vehicle regulations at 40 C.F.R. Parts 85, 86, and 1068.

The EPA issues this Request for Information under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA, Title II, Part A – Motor Vehicle Emission and Fuel Standards, Sections 202 – 219, 42 U.S.C. §§ 7521-7554, to perform tests and provide information necessary to determine whether the person is acting or has acted in compliance with the CAA and the regulations promulgated thereunder. The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, Region 4.

Please review the following enclosures and complete as appropriate: Instructions (Enclosure 1), Definitions (Enclosure 2), Claiming Confidentiality (Enclosure 3), Request for Information (Enclosure 4), Statement of Certification (Enclosure 5), and Service Performed Spreadsheet (Enclosure 6).

The requested information shall be submitted to the EPA electronically, per the instructions in Enclosure 1. The responses shall be submitted **no later than 30 calendar days** after Promaster's receipt of this letter as determined by the date of the EPA's email transmitting this request. This information must be submitted electronically to the following individual:

Megan Arias
Air Enforcement Branch
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303
arias.megan@epa.gov

Failure to provide the information required by this letter is a violation of the Act and may result in one or more of the following actions: (1) commencement of a civil action seeking compliance with this request pursuant to Section 204 of the Act, 42 U.S.C. § 7523; (2) issuance of an administrative penalty order pursuant to Section 205(c) of the Act, 42 U.S.C. § 7424(c); (3) commencement of a civil action in accordance with Section 205(b) of the Act, 42 U.S.C. § 7524(b); and/or (4) any other action authorized under the Act.

Under Section 208(c) of the Act, 42 U.S.C. § 7542(c), and pursuant to the regulations found at 40 C.F.R. Part 2, Subpart B, including 40 C.F.R. § 2.301, you are entitled to assert a claim of business confidentiality for any information you provide to the EPA which you regard as confidential business information (CBI). For such information, you may request that the EPA treat such information as confidential. Any such claim of confidentiality must conform to the requirements of 40 C.F.R. § 2.203(b). Note that “emission data,” as defined by 40 C.F.R. § 2.301(a)(2), cannot be claimed as confidential under Section 208(c) of the Act, 42 U.S.C. § 7542(c). For detailed instructions for claiming confidentiality, please see Enclosure 3. Information you supply under a claim of confidentiality will be treated in accordance with 40 C.F.R. Part 2, Subpart B, and will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to Promaster. Please note that any confidentiality claim does not obviate the need to send that portion of the response to the EPA.

The response to the information requested must be accompanied by Enclosure 5, Statement of Certification, which is to be signed and dated by a responsible official of Promaster. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this request that are known to you, following a complete and thorough review of all information and sources available to you.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 – 3520, because it seeks information from specific individuals or entities as part of an investigation.

If you have any questions regarding this matter, please contact Megan Arias at 404-562-8968 or by email at arias.megan@epa.gov.

Sincerely,

Carol L. Kemker
Director
Enforcement and Compliance Assurance Division

Enclosures

ENCLOSURE 1

Instructions

1. If the company has no responsive information or documents pertaining to a particular question, submit an affirmative statement and explanation.
2. You must identify the filename or document title. Make sure to correlate each document(s) to a specific question in the request. If a document is responsive to more than one question, this must be so indicated and only one (1) version of the document needs to be provided.
3. The company shall submit documents in .pdf format or in any other electronic format as specified in Enclosure 4. Do not create separate .pdf files for each page of a single document.
4. Please provide your responses to Requests 2 and 3 in an unlocked, electronic spreadsheet format. For your convenience, the EPA has provided Enclosure 6 which consists of an Excel template in which you are requested to organize your responses to Requests 2 and 3. If Excel format is not available, then the format should allow for data to be imported and used in calculations by a standard spreadsheet program such as Excel.
5. Identify each person whom you relied on or consulted with in preparing your responses to each question of this information request. Provide their name, title, job duties and duration of employment with the company. If they are not an employee of the company, identify their employer and provide their name, title, job duties and duration of employment with their employer.
6. Identify each document consulted, examined, or referred to in the preparation of your response or that contains information responsive to the question, and provide a true and correct copy of each such document if not provided in response to another specific question. Indicate on each document produced in response to this information request the number of the question to which it corresponds.
7. If requested information or documents are not known or are not available to you at the time of your response to this information request, but later become known or available to you, you must supplement your response to the EPA within 30 calendar days of discovery of the responsive information. Moreover, should you find at any time after submission of your response that any portion is or becomes false, incomplete or misrepresents the facts, you must provide the EPA with a corrected response as soon as possible.
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5. The term “electronic control module” or “ECM” means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. The ECM uses software programming including calculations and tables of information to provide the appropriate outputs. Multiple electronic control modules may be incorporated in a single unit to control various engine, vehicle, or equipment functions.
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12. The term “information” includes any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intraoffice communications, electronic mail (“email”), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting, or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, presentations, spreadsheets, and worksheets. The term “information” includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term “information” also includes any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back-up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. Information bearing any notation not part of the original text is considered to be separate information. A draft or non-identical copy is separate information within the meaning of this term.
13. The term “person” includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
14. The term “product” includes any software code, software, hardware, program, element of design, calibration, engine tune, EM product, device, part or component.
15. The term “you,” “your,” and “Promaster” means Promaster Automotive, Inc., and any affiliates, predecessors, successors, assignees, agents, employees, representatives, investigators, accountants, auditors, attorneys, experts, consultants, and contractors. These terms shall also mean any others who are not listed above and are in possession, custody, or control (actual or constructive) of information relevant to this request or information that is otherwise available to Promaster Automotive, Inc., or who may have obtained information for or on behalf of Promaster Automotive, Inc.

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ENCLOSURE 3

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B. Substantiation Requirements

All confidentiality claims are subject to the EPA verification and must be made in accordance with 40 C.F.R. Part 2, Subpart B. You bear the burden of substantiating your confidentiality claim and must satisfactorily show that disclosure of the information would be likely to cause substantial harm to your business’ competitive position; that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; and that the information is not and has not been reasonably obtainable by legitimate means without your consent, among other things. Conclusory allegations will be given little or no weight.

Before the EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, the EPA will send you a letter asking you to substantiate fully your CBI claim by answering 11 questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. You must provide the EPA with a response within the number of days set forth in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

The EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied. Any information not specifically identified as subject to a confidentiality claim may be disclosed without further notice to you. For each item or class of information that you identify as being confidential, the EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in the EPA’s determination:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. For each item or category of information claimed as confidential, explain with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
8. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
9. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.
10. If you believe any information to be (a) trade secret (s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret (s).
11. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data).

Please note that emission data provided under Section 208 of the Act, 42 U.S.C. § 7542, is not entitled to confidential treatment under 40 C.F.R. Part 2. "Emission data" means, with reference to any source of emission of any substance into the air - (A) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing; (B) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions

which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and (C) a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

ENCLOSURE 4

Request for Information

Promaster shall submit the following information to the EPA, pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, regarding certain parts or products that you either installed, serviced or sold between January 1, 2020, and March 1, 2020. For Requests 2 and 3, please submit your response using the Excel template provided as Enclosure 6, Service Performed Spreadsheet.

1. Provide a complete, unedited copy of every service invoice for each vehicle serviced by Promaster between January 1, 2020, and March 1, 2020, including copies of all attachments.
2. For each service invoice provided in response to Request 1, identify the make, model, and year of the vehicle serviced, if it is not already stated on the invoice.
3. For each service invoice provided in response to Request 1, identify if the service provided bypassed, defeated, removed, or rendered inoperative the EGR, DPF, SCR, and/or catalyst.
4. Provide copies of invoices for all engine management products and exhaust products sold by Promaster between January 1, 2020, and March 1, 2020.

ENCLOSURE 5

STATEMENT OF CERTIFICATION

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001, 1341 and 1505.

(Signature)

(Printed Name)

(Title)

(Date)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

SENT VIA ELECTRONIC MAIL

Kayla Summers, Managing Member
TSI Diesel Worx, LLC
9500 County Farm Road
Gulfport, Mississippi 39503
info@tsidieselworx.com

Dear Ms. Summers:

Pursuant to Section 208(a) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7542(a), you are hereby required to provide the U.S. Environmental Protection Agency with information relating to TSI Diesel Worx, LLC's (TSI) business. The EPA is seeking this information to determine whether TSI is in compliance with requirements of Sections 203(a) and 213(d) of the Act, 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable motor vehicle regulations at 40 C.F.R. Parts 85, 86, and 1068.

The EPA issues this Request for Information under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA, Title II, Part A – Motor Vehicle Emission and Fuel Standards, Sections 202 – 219, 42 U.S.C. §§ 7521-7554, to perform tests and provide information necessary to determine whether the person is acting or has acted in compliance with the CAA and the regulations promulgated thereunder. The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, Region 4.

Please review the following enclosures and complete as appropriate: Instructions (Enclosure 1), Definitions (Enclosure 2), Claiming Confidentiality (Enclosure 3), Request for Information (Enclosure 4), Statement of Certification (Enclosure 5), and Service Performed Spreadsheet (Enclosure 6).

The requested information shall be submitted to the EPA electronically, per the instructions in Enclosure 1. The responses shall be submitted **no later than 30 calendar days** after TSI's receipt of this letter as determined by the date of the EPA's email transmitting this request. This information must be submitted electronically to the following individual:

Aleeka Broner
Air Enforcement Branch
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303
broner.aleeka@epa.gov

Failure to provide the information required by this letter is a violation of the Act and may result in one or more of the following actions: (1) commencement of a civil action seeking compliance with this request pursuant to Section 204 of the Act, 42 U.S.C. § 7523; (2) issuance of an administrative penalty order pursuant to Section 205(c) of the Act, 42 U.S.C. § 7424(c); (3) commencement of a civil action in accordance with Section 205(b) of the Act, 42 U.S.C. § 7524(b); and/or (4) any other action authorized under the Act.

Under Section 208(c) of the Act, 42 U.S.C. § 7542(c), and pursuant to the regulations found at 40 C.F.R. Part 2, Subpart B, including 40 C.F.R. § 2.301, you are entitled to assert a claim of business confidentiality for any information you provide to the EPA which you regard as confidential business information (CBI). For such information, you may request that the EPA treat such information as confidential. Any such claim of confidentiality must conform to the requirements of 40 C.F.R. § 2.203(b). Note that “emission data,” as defined by 40 C.F.R. § 2.301(a)(2), cannot be claimed as confidential under Section 208(c) of the Act, 42 U.S.C. § 7542(c). For detailed instructions for claiming confidentiality, please see Enclosure 3. Information you supply under a claim of confidentiality will be treated in accordance with 40 C.F.R. Part 2, Subpart B, and will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to TSI. Please note that any confidentiality claim does not obviate the need to send that portion of the response to the EPA.

The response to the information requested must be accompanied by Enclosure 5, Statement of Certification, which is to be signed and dated by a responsible official of TSI. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this request that are known to you, following a complete and thorough review of all information and sources available to you.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 – 3520, because it seeks information from specific individuals or entities as part of an investigation.

If you have any questions regarding this matter, please contact Aleeka Broner at (404) 562-9186 or by email at broner.aleeka@epa.gov.

Sincerely,

Carol L. Kemker
Director
Enforcement and Compliance Assurance Division

Enclosures

ENCLOSURE 1

Instructions

1. If the company has no responsive information or documents pertaining to a particular question, submit an affirmative statement and explanation.
2. You must identify the filename or document title. Make sure to correlate each document(s) to a specific question in the request. If a document is responsive to more than one question, this must be so indicated and only one (1) version of the document needs to be provided.
3. The company shall submit documents in .pdf format or in any other electronic format as specified in Enclosure 4. Do not create separate .pdf files for each page of a single document.
4. Please provide your responses to Requests 2 and 3 in an unlocked, electronic spreadsheet format. For your convenience, the EPA has provided Enclosure 6 which consists of an Excel template in which you are requested to organize your responses to Requests 2 and 3. If Excel format is not available, then the format should allow for data to be imported and used in calculations by a standard spreadsheet program such as Excel.
5. Identify each person whom you relied on or consulted with in preparing your responses to each question of this information request. Provide their name, title, job duties and duration of employment with the company. If they are not an employee of the company, identify their employer and provide their name, title, job duties and duration of employment with their employer.
6. Identify each document consulted, examined, or referred to in the preparation of your response or that contains information responsive to the question, and provide a true and correct copy of each such document if not provided in response to another specific question. Indicate on each document produced in response to this information request the number of the question to which it corresponds.
7. If requested information or documents are not known or are not available to you at the time of your response to this information request, but later become known or available to you, you must supplement your response to the EPA within 30 calendar days of discovery of the responsive information. Moreover, should you find at any time after submission of your response that any portion is or becomes false, incomplete or misrepresents the facts, you must provide the EPA with a corrected response as soon as possible.
8. Provide a separate response to each and every question, and each and every subpart of a question.
9. Please submit your responses to this request to the EPA electronically. You may submit your response by either a.) email to broner.aleeka@epa.gov, or b.) requesting a link from the EPA for a secure file transfer site where you may upload documents. Please note, the EPA cannot receive .zip files via email. If you wish to submit a file in .zip format please select option b. above.
10. Please do not send documents that you have claimed as confidential business information (CBI) to the EPA over the internet. If you have documents that you have claimed as CBI to submit please send them as electronic files on a USB drive or CD by mail to: Aleeka Broner, Air Enforcement Branch, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303.

ENCLOSURE 2

Definitions

1. The term “affiliated organization” or “affiliate” means any organization or entity associated with TSI Diesel Worx, LLC as an agent, parent organization, predecessor corporation, sister company, subsidiary organization, or any organization or entity acting in lieu of you.
2. The term “catalyst(s)” means systems or devices which increase the rate of a chemical reaction but are not one of the original reactants or final products, *i.e.*, the catalyst is not consumed or altered in the reaction. The term “catalyst(s)” includes emission control catalysts such as diesel oxidation catalysts (“DOCs”), NO_x adsorber catalysts (“NACs”), and three-way catalysts (“TWCs”).
3. The term “DPF” refers to diesel particulate filters, which are exhaust aftertreatment devices that typically use a porous ceramic or cordierite substrate or metallic filter to physically trap particulate matter (“PM”) and remove it from the exhaust stream.
4. The term “element of design” means any control system (e.g., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine, as defined in 40 C.F.R. §§ 86.094-2 and 86.1803-01.
5. The term “electronic control module” or “ECM” means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. The ECM uses software programming including calculations and tables of information to provide the appropriate outputs. Multiple electronic control modules may be incorporated in a single unit to control various engine, vehicle, or equipment functions.
6. The term “engine management product” or “EM product” means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information stored within or used by an ECM. EM products include, but are not limited to, programmers, modules, tuners, ECM calibration tools, replacement ECMs, flash tools, or engine management products.
7. The term “emission related parts” means those parts installed for the specific purpose of controlling emissions, or those components, systems, or elements of design which must function properly to assure continued vehicle emission compliance, as defined in 40 C.F.R. § 85.2102.
8. The term “engine tune,” “tune,” or “calibration” means any combination of software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information, stored in any form, capable of affecting or controlling an ECM.
9. The term “entity” means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization or association.

10. The term “exhaust product” means exhaust components designed for use downstream from the exhaust port of a motor vehicle engine, and include, but are not limited to turbochargers, EGR block plates, EGR delete kits, EGR reroute kits, EGR solution kits, aftermarket EGR coolers, exhaust replacement pipes, downpipe-back exhaust systems, turbo-back exhaust systems, race pipes, test pipes and straight pipes.
11. The term “exhaust gas recirculation” or “EGR” means systems which redirect, usually by use of an EGR valve, a portion of engine exhaust back into the engine’s combustion chamber to cool and reduce peak combustion temperatures and pressures, thereby reducing the production of nitrogen oxides (“NOx”). The EGR system may include an EGR cooler to cool the recirculated exhaust to further reduce the combustion temperature.
12. The term “information” includes any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intraoffice communications, electronic mail (“email”), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting, or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, presentations, spreadsheets, and worksheets. The term “information” includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term “information” also includes any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back-up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. Information bearing any notation not part of the original text is considered to be separate information. A draft or non-identical copy is separate information within the meaning of this term.
13. The term “person” includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
14. The term “product” includes any software code, software, hardware, program, element of design, calibration, engine tune, EM product, device, part or component.
15. The term “you,” “your,” and “TSI” means TSI Diesel Worx, LLC, and any affiliates, predecessors, successors, assignees, agents, employees, representatives, investigators, accountants, auditors, attorneys, experts, consultants, and contractors. These terms shall also mean any others who are not listed above and are in possession, custody, or control (actual or constructive) of information relevant to this request or information that is otherwise available to TSI Diesel Worx, LLC, or who may have obtained information for or on behalf of TSI Diesel Worx, LLC.

16. The term “SCR” refers to the selective catalytic reduction system, which is an exhaust aftertreatment device designed to reduce NO_x emissions by injecting a liquid reagent through a catalyst.
17. The term “service” means any action to change, affect, modify, bypass, render inoperative, remove, download and/or install one or more part(s) or component(s) (*e.g.*, emission control components) or other item(s), including, but not limited to, engine parts, turbochargers, block plates, straight pipes, power packages, computer tuning, calibrations, elements of design, tuners, tunes, software, code, or devices.

All terms not defined in this enclosure have their ordinary meaning, unless such terms are defined in the Clean Air Act and/or its implementing regulations, and in which case the statutory and/or regulatory definitions apply. Words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions. The terms “and” and “or” shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this information request any information which might otherwise be construed to be outside its scope.

ENCLOSURE 3

Confidential Business Information (CBI) Assertion and Substantiation Requirements

A. Assertion Requirements

You may assert a business confidentiality claim covering part or all of the information, other than emissions data and information or data that is otherwise publicly available, as described in 40 C.F.R. § 2.203(b). If no business confidentiality claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice. To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any information over which you make a claim of confidentiality should be marked by placing on or attaching to the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret” or “proprietary” or “business confidential” and a date if any when the information should no longer be treated as confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. Information covered by such a claim will be disclosed by the EPA only to the extent permitted and by means of the procedures set forth by Section 208(c) of the Act, and 40 C.F.R. Part 2, Subpart B.

B. Substantiation Requirements

All confidentiality claims are subject to the EPA verification and must be made in accordance with 40 C.F.R. Part 2, Subpart B. You bear the burden of substantiating your confidentiality claim and must satisfactorily show that disclosure of the information would be likely to cause substantial harm to your business’ competitive position; that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; and that the information is not and has not been reasonably obtainable by legitimate means without your consent, among other things. Conclusory allegations will be given little or no weight.

Before the EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, the EPA will send you a letter asking you to substantiate fully your CBI claim by answering 11 questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. You must provide the EPA with a response within the number of days set forth in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

The EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied. Any information not specifically identified as subject to a confidentiality claim may be disclosed without further notice to you. For each item or class of information that you identify as being confidential, the EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in the EPA’s determination:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. For each item or category of information claimed as confidential, explain with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
8. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
9. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.
10. If you believe any information to be (a) trade secret (s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret (s).
11. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data).

Please note that emission data provided under Section 208 of the Act, 42 U.S.C. § 7542, is not entitled to confidential treatment under 40 C.F.R. Part 2. "Emission data" means, with reference to any source of emission of any substance into the air - (A) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing; (B) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions

which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and (C) a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

ENCLOSURE 4

Request for Information

TSI Diesel Worx, LLC shall submit the following information to the EPA, pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, regarding certain parts or products that you either installed, serviced or sold between January 1, 2020, and March 1, 2020. For Requests 2 and 3, please submit your response using the Excel template provided as Enclosure 6, Service Performed Spreadsheet.

1. Provide a complete, unedited copy of every service invoice for each vehicle serviced by TSI between January 1, 2020, and March 1, 2020, including copies of all attachments.
2. For each service invoice provided in response to Request 1, identify the make, model, and year of the vehicle serviced, if it is not already stated on the invoice.
3. For each service invoice provided in response to Request 1, identify if the service provided bypassed, defeated, removed, or rendered inoperative the EGR, DPF, SCR, and/or catalyst.
4. Provide copies of invoices for all engine management products and exhaust products sold by TSI between January 1, 2020, and March 1, 2020.

ENCLOSURE 5

STATEMENT OF CERTIFICATION

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001, 1341 and 1505.

(Signature)

(Printed Name)

(Title)

(Date)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

SENT VIA ELECTRONIC MAIL

Mike Liles, Chief Executive Officer
Carolina Diesel Trucks
62 Progress Drive
Fuquay-Varina, North Carolina 27526
info@carolindieseltrucks.com

Dear Mr. Liles:

Pursuant to Section 208(a) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7542(a), you are hereby required to provide the U.S. Environmental Protection Agency with information relating to Carolina Diesel Trucks, LLC's (CDT) business. The EPA is seeking this information to determine whether CDT is in compliance with requirements of Sections 203(a) and 213(d) of the Act, 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable motor vehicle regulations at 40 C.F.R. Parts 85, 86, and 1068.

The EPA issues this Request for Information under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA, Title II, Part A – Motor Vehicle Emission and Fuel Standards, Sections 202 – 219, 42 U.S.C. §§ 7521-7554, to perform tests and provide information necessary to determine whether the person is acting or has acted in compliance with the CAA and the regulations promulgated thereunder. The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, Region 4.

Please review the following enclosures and complete as appropriate: Instructions (Enclosure 1), Definitions (Enclosure 2), Claiming Confidentiality (Enclosure 3), Request for Information (Enclosure 4), Statement of Certification (Enclosure 5), and Service Performed Spreadsheet (Enclosure 6).

The requested information shall be submitted to the EPA electronically, per the instructions in Enclosure 1. The responses shall be submitted **no later than 30 calendar days** after CDT's receipt of this letter as determined by the date of the EPA's email transmitting this request. This information must be submitted electronically to the following individual:

Aleeka Broner
Air Enforcement Branch
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303
broner.aleeka@epa.gov

Failure to provide the information required by this letter is a violation of the Act and may result in one or more of the following actions: (1) commencement of a civil action seeking compliance with this request pursuant to Section 204 of the Act, 42 U.S.C. § 7523; (2) issuance of an administrative penalty order pursuant to Section 205(c) of the Act, 42 U.S.C. § 7424(c); (3) commencement of a civil action in accordance with Section 205(b) of the Act, 42 U.S.C. § 7524(b); and/or (4) any other action authorized under the Act.

Under Section 208(c) of the Act, 42 U.S.C. § 7542(c), and pursuant to the regulations found at 40 C.F.R. Part 2, Subpart B, including 40 C.F.R. § 2.301, you are entitled to assert a claim of business confidentiality for any information you provide to the EPA which you regard as confidential business information (CBI). For such information, you may request that the EPA treat such information as confidential. Any such claim of confidentiality must conform to the requirements of 40 C.F.R. § 2.203(b). Note that “emission data,” as defined by 40 C.F.R. § 2.301(a)(2), cannot be claimed as confidential under Section 208(c) of the Act, 42 U.S.C. § 7542(c). For detailed instructions for claiming confidentiality, please see Enclosure 3. Information you supply under a claim of confidentiality will be treated in accordance with 40 C.F.R. Part 2, Subpart B, and will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to CDT. Please note that any confidentiality claim does not obviate the need to send that portion of the response to the EPA.

The response to the information requested must be accompanied by Enclosure 5, Statement of Certification, which is to be signed and dated by a responsible official of CDT. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this request that are known to you, following a complete and thorough review of all information and sources available to you.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 – 3520, because it seeks information from specific individuals or entities as part of an investigation.

If you have any questions regarding this matter, please contact Aleeka Broner at (404) 562-9186 or by email at broner.aleeka@epa.gov.

Sincerely,

Carol L. Kemker
Director
Enforcement and Compliance Assurance Division

Enclosures

ENCLOSURE 1

Instructions

1. Provide a separate response to each Request set forth in Enclosure 4.
2. Indicate on each document produced, or in some other reasonable manner, the number of the Request to which it corresponds. If a document is responsive to more than one Request, this must be so indicated and only one (1) version of the document needs to be provided.
3. The company shall submit documents in Portable Document Format (PDF) or in any other electronic format as specified in Enclosure 4. Do not create separate PDF files for each page of a single document.
4. Please provide your responses to Requests 2 and 3 in an unlocked, electronic spreadsheet format. For your convenience, the EPA has provided Enclosure 6 which consists of an Excel template in which you are requested to organize your responses to Requests 2 and 3. If Excel format is not available, then the format should allow for data to be imported and used in calculations by a standard spreadsheet program such as Excel.
5. Identify each person whom you relied on or consulted with in preparing your responses to each question of this information request. Provide their name, title, job duties and duration of employment with the company. If they are not an employee of the company, identify their employer and provide their name, title, job duties and duration of employment with their employer.
6. If requested information or documents are not known or are not available to you at the time of your response to this information request, but later become known or available to you, you must supplement your response to the EPA within 30 calendar days of discovery of the responsive information. Moreover, should you find at any time after submission of your response that any portion is or becomes false, incomplete or misrepresents the facts, you must provide the EPA with a corrected response as soon as possible.
7. Please submit your response to this Request to the EPA electronically. You may submit your response using any of the following options: A.) via email to broner.aleeka@epa.gov; B.) by requesting a link from the EPA for a secure file transfer site where you may upload your response; or C.) as electronic files on a USB drive or CD sent by mail to: Aleeka Broner, Air Enforcement Branch, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303. Please note, the EPA cannot receive compressed files (.zip) via email. If you wish to submit compressed files please select option B or C above.
8. Please do not send documents that you have claimed as confidential business information (CBI) to the EPA over the internet. If you have documents that you have claimed as CBI to submit please send them as electronic files on a USB drive or CD by mail (option C).

ENCLOSURE 2

Definitions

1. The term “affiliated organization” or “affiliate” means any organization or entity associated with Carolina Diesel Trucks, LLC as an agent, parent organization, predecessor corporation, sister company, subsidiary organization, or any organization or entity acting in lieu of you.
2. The term “catalyst(s)” means systems or devices which increase the rate of a chemical reaction but are not one of the original reactants or final products, *i.e.*, the catalyst is not consumed or altered in the reaction. The term “catalyst(s)” includes emission control catalysts such as diesel oxidation catalysts (“DOCs”), NO_x adsorber catalysts (“NACs”), and three-way catalysts (“TWCs”).
3. The term “DPF” refers to diesel particulate filters, which are exhaust aftertreatment devices that typically use a porous ceramic or cordierite substrate or metallic filter to physically trap particulate matter (“PM”) and remove it from the exhaust stream.
4. The term “element of design” means any control system (e.g., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine, as defined in 40 C.F.R. §§ 86.094-2 and 86.1803-01.
5. The term “electronic control module” or “ECM” means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. The ECM uses software programming including calculations and tables of information to provide the appropriate outputs. Multiple electronic control modules may be incorporated in a single unit to control various engine, vehicle, or equipment functions.
6. The term “engine management product” or “EM product” means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information stored within or used by an ECM. EM products include, but are not limited to, programmers, modules, tuners, ECM calibration tools, replacement ECMs, flash tools, or engine management products.
7. The term “emission related parts” means those parts installed for the specific purpose of controlling emissions, or those components, systems, or elements of design which must function properly to assure continued vehicle emission compliance, as defined in 40 C.F.R. § 85.2102.
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9. The term “entity” means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization or association.

10. The term “exhaust product” means exhaust components designed for use downstream from the exhaust port of a motor vehicle engine, and include, but are not limited to turbochargers, EGR block plates, EGR delete kits, EGR reroute kits, EGR solution kits, aftermarket EGR coolers, exhaust replacement pipes, downpipe-back exhaust systems, turbo-back exhaust systems, race pipes, test pipes and straight pipes.
11. The term “exhaust gas recirculation” or “EGR” means systems which redirect, usually by use of an EGR valve, a portion of engine exhaust back into the engine’s combustion chamber to cool and reduce peak combustion temperatures and pressures, thereby reducing the production of nitrogen oxides (“NOx”). The EGR system may include an EGR cooler to cool the recirculated exhaust to further reduce the combustion temperature.
12. The term “information” includes any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intraoffice communications, electronic mail (“email”), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting, or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, presentations, spreadsheets, and worksheets. The term “information” includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term “information” also includes any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back-up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. Information bearing any notation not part of the original text is considered to be separate information. A draft or non-identical copy is separate information within the meaning of this term.
13. The term “person” includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
14. The term “product” includes any software code, software, hardware, program, element of design, calibration, engine tune, EM product, device, part or component.
15. The term “you,” “your,” and “CDT” means Carolina Diesel Trucks, LLC, and any affiliates, predecessors, successors, assignees, agents, employees, representatives, investigators, accountants, auditors, attorneys, experts, consultants, and contractors. These terms shall also mean any others who are not listed above and are in possession, custody, or control (actual or constructive) of information relevant to this request or information that is otherwise available to Carolina Diesel Trucks, LLC, or who may have obtained information for or on behalf of Carolina Diesel Trucks, LLC.

16. The term “service” means any action to change, affect, modify, bypass, render inoperative, remove, download and/or install one or more part(s) or component(s) (*e.g.*, emission control components) or other item(s), including, but not limited to, engine parts, turbochargers, block plates, straight pipes, power packages, computer tuning, calibrations, elements of design, tuners, tunes, software, code, or devices.
17. The term “SCR” refers to the selective catalytic reduction system, which is an exhaust aftertreatment device designed to reduce NO_x emissions by injecting a liquid reagent through a catalyst.

All terms not defined in this enclosure have their ordinary meaning, unless such terms are defined in the Clean Air Act and/or its implementing regulations, and in which case the statutory and/or regulatory definitions apply. Words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions. The terms “and” and “or” shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this information request any information which might otherwise be construed to be outside its scope.

ENCLOSURE 3

Confidential Business Information (CBI) Assertion and Substantiation Requirements

A. Assertion Requirements

You may assert a business confidentiality claim covering part or all of the information, other than emissions data and information or data that is otherwise publicly available, as described in 40 C.F.R. § 2.203(b). If no business confidentiality claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice. To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any information over which you make a claim of confidentiality should be marked by placing on or attaching to the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret” or “proprietary” or “business confidential” and a date if any when the information should no longer be treated as confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. Information covered by such a claim will be disclosed by the EPA only to the extent permitted and by means of the procedures set forth by Section 208(c) of the Act, and 40 C.F.R. Part 2, Subpart B.

B. Substantiation Requirements

All confidentiality claims are subject to the EPA verification and must be made in accordance with 40 C.F.R. Part 2, Subpart B. You bear the burden of substantiating your confidentiality claim and must satisfactorily show that disclosure of the information would be likely to cause substantial harm to your business’ competitive position; that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; and that the information is not and has not been reasonably obtainable by legitimate means without your consent, among other things. Conclusory allegations will be given little or no weight.

Before the EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, the EPA will send you a letter asking you to substantiate fully your CBI claim by answering 11 questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. You must provide the EPA with a response within the number of days set forth in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

The EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied. Any information not specifically identified as subject to a confidentiality claim may be disclosed without further notice to you. For each item or class of information that you identify as being confidential, the EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in the EPA’s determination:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. For each item or category of information claimed as confidential, explain with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
8. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
9. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.
10. If you believe any information to be (a) trade secret (s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret (s).
11. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data).

Please note that emission data provided under Section 208 of the Act, 42 U.S.C. § 7542, is not entitled to confidential treatment under 40 C.F.R. Part 2. "Emission data" means, with reference to any source of emission of any substance into the air - (A) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing; (B) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions

which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and (C) a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

ENCLOSURE 4

Request for Information

Carolina Diesel Trucks, LLC shall submit the following information to the EPA, pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, regarding certain parts or products that you either installed, serviced or sold between January 1, 2020, and March 1, 2020. For Requests 2 and 3, please submit your response using the Excel template provided as Enclosure 6, Service Performed Spreadsheet.

1. Provide a complete, unedited copy of every service invoice for each vehicle serviced by CDT between January 1, 2020, and March 1, 2020, including copies of all attachments.
2. For each service invoice provided in response to Request 1, identify the make, model, and year of the vehicle serviced, if it is not already stated on the invoice.
3. For each service invoice provided in response to Request 1, identify if the service provided bypassed, defeated, removed, or rendered inoperative the EGR, DPF, SCR, and/or catalyst.
4. Provide copies of invoices for all engine management products and exhaust products sold by CDT between January 1, 2020, and March 1, 2020, including all online sales.

ENCLOSURE 5

STATEMENT OF CERTIFICATION

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001, 1341 and 1505.

(Signature)

(Printed Name)

(Title)

(Date)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

ATLANTA FEDERAL CENTER

61 FORSYTH STREET

ATLANTA, GEORGIA 30303-8960

SENT VIA ELECTRONIC MAIL

Maria Slater, President
Central Florida Diesel Performance
1501 Lake Drive
Cocoa, Florida 32922
cfdpinc@yahoo.com

Dear Ms. Slater:

Pursuant to Section 208(a) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7542(a), you are hereby required to provide the U.S. Environmental Protection Agency with information relating to Central Florida Diesel Performance, Inc.'s (CFDP) business. The EPA is seeking this information to determine whether CFDP is in compliance with requirements of Sections 203(a) and 213(d) of the Act, 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable motor vehicle regulations at 40 C.F.R. Parts 85, 86, and 1068.

The EPA issues this Request for Information under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA, Title II, Part A – Motor Vehicle Emission and Fuel Standards, Sections 202 – 219, 42 U.S.C. §§ 7521-7554, to perform tests and provide information necessary to determine whether the person is acting or has acted in compliance with the CAA and the regulations promulgated thereunder. The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, Region 4.

Please review the following enclosures and complete as appropriate: Instructions (Enclosure 1), Definitions (Enclosure 2), Claiming Confidentiality (Enclosure 3), Request for Information (Enclosure 4), Statement of Certification (Enclosure 5), and Service Performed Spreadsheet (Enclosure 6).

The requested information shall be submitted to the EPA electronically, per the instructions in Enclosure 1. The responses shall be submitted **no later than 30 calendar days** after CFDP's receipt of this letter as determined by the date of the EPA's email transmitting this request. This information must be submitted electronically to the following individual:

Aleeka Broner
Air Enforcement Branch
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303
broner.aleeka@epa.gov

Internet Address (URL) <http://www.epa.gov>

Failure to provide the information required by this letter is a violation of the Act and may result in one or more of the following actions: (1) commencement of a civil action seeking compliance with this request pursuant to Section 204 of the Act, 42 U.S.C. § 7523; (2) issuance of an administrative penalty order pursuant to Section 205(c) of the Act, 42 U.S.C. § 7424(c); (3) commencement of a civil action in accordance with Section 205(b) of the Act, 42 U.S.C. § 7524(b); and/or (4) any other action authorized under the Act.

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The response to the information requested must be accompanied by Enclosure 5, Statement of Certification, which is to be signed and dated by a responsible official of CFDP. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this request that are known to you, following a complete and thorough review of all information and sources available to you.

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Sincerely,

Carol L. Kemker
Director
Enforcement and Compliance Assurance Division

Enclosures

ENCLOSURE 1

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1. Provide a separate response to each Request set forth in Enclosure 4.
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5. Identify each person whom you relied on or consulted with in preparing your responses to each question of this information request. Provide their name, title, job duties and duration of employment with the company. If they are not an employee of the company, identify their employer and provide their name, title, job duties and duration of employment with their employer.
6. If requested information or documents are not known or are not available to you at the time of your response to this information request, but later become known or available to you, you must supplement your response to the EPA within 30 calendar days of discovery of the responsive information. Moreover, should you find at any time after submission of your response that any portion is or becomes false, incomplete or misrepresents the facts, you must provide the EPA with a corrected response as soon as possible.
7. Please submit your response to this Request to the EPA electronically. You may submit your response using any of the following options: A.) via email to broner.aleeka@epa.gov; B.) by requesting a link from the EPA for a secure file transfer site where you may upload your response; or C.) as electronic files on a USB drive or CD sent by mail to: Aleeka Broner, Air Enforcement Branch, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303. Please note, the EPA cannot receive compressed files (.zip) via email. If you wish to submit compressed files please select option B or C above.
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12. The term “information” includes any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intraoffice communications, electronic mail (“email”), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting, or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, presentations, spreadsheets, and worksheets. The term “information” includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term “information” also includes any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back-up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. Information bearing any notation not part of the original text is considered to be separate information. A draft or non-identical copy is separate information within the meaning of this term.
13. The term “person” includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
14. The term “product” includes any software code, software, hardware, program, element of design, calibration, engine tune, EM product, device, part or component
15. The term “you,” “your,” and “CFDP” means Central Florida Diesel Performance, Inc., and any affiliates, predecessors, successors, assignees, agents, employees, representatives, investigators, accountants, auditors, attorneys, experts, consultants, and contractors. These terms shall also mean any others who are not listed above and are in possession, custody, or control (actual or constructive) of information relevant to this request or information that is otherwise available to Central Florida Diesel Performance, Inc., or who may have obtained information for or on behalf of Central Florida Diesel Performance, Inc.

16. The term “SCR” refers to the selective catalytic reduction system, which is an exhaust aftertreatment device designed to reduce NO_x emissions by injecting a liquid reagent through a catalyst.
17. The term “service” means any action to change, affect, modify, bypass, render inoperative, remove, download and/or install one or more part(s) or component(s) (*e.g.*, emission control components) or other item(s), including, but not limited to, engine parts, turbochargers, block plates, straight pipes, power packages, computer tuning, calibrations, elements of design, tuners, tunes, software, code, or devices.

All terms not defined in this enclosure have their ordinary meaning, unless such terms are defined in the Clean Air Act and/or its implementing regulations, and in which case the statutory and/or regulatory definitions apply. Words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions. The terms “and” and “or” shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this information request any information which might otherwise be construed to be outside its scope.

ENCLOSURE 3

Confidential Business Information (CBI) Assertion and Substantiation Requirements

A. Assertion Requirements

You may assert a business confidentiality claim covering part or all of the information, other than emissions data and information or data that is otherwise publicly available, as described in 40 C.F.R. § 2.203(b). If no business confidentiality claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice. To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any information over which you make a claim of confidentiality should be marked by placing on or attaching to the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret” or “proprietary” or “business confidential” and a date if any when the information should no longer be treated as confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. Information covered by such a claim will be disclosed by the EPA only to the extent permitted and by means of the procedures set forth by Section 208(c) of the Act, and 40 C.F.R. Part 2, Subpart B.

B. Substantiation Requirements

All confidentiality claims are subject to the EPA verification and must be made in accordance with 40 C.F.R. Part 2, Subpart B. You bear the burden of substantiating your confidentiality claim and must satisfactorily show that disclosure of the information would be likely to cause substantial harm to your business’ competitive position; that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; and that the information is not and has not been reasonably obtainable by legitimate means without your consent, among other things. Conclusory allegations will be given little or no weight.

Before the EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, the EPA will send you a letter asking you to substantiate fully your CBI claim by answering 11 questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. You must provide the EPA with a response within the number of days set forth in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

The EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied. Any information not specifically identified as subject to a confidentiality claim may be disclosed without further notice to you. For each item or class of information that you identify as being confidential, the EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in the EPA’s determination:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. For each item or category of information claimed as confidential, explain with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
8. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
9. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.
10. If you believe any information to be (a) trade secret (s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret (s).
11. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data).

Please note that emission data provided under Section 208 of the Act, 42 U.S.C. § 7542, is not entitled to confidential treatment under 40 C.F.R. Part 2. "Emission data" means, with reference to any source of emission of any substance into the air - (A) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing; (B) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions

which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and (C) a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

ENCLOSURE 4

Request for Information

Central Florida Diesel Performance, Inc. shall submit the following information to the EPA, pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, regarding certain parts or products that you either installed, serviced or sold between January 1, 2020, and March 1, 2020. For Requests 2 and 3, please submit your response using the Excel template provided as Enclosure 6, Service Performed Spreadsheet.

1. Provide a complete, unedited copy of every service invoice for each vehicle serviced by CFDP between January 1, 2020, and March 1, 2020, including copies of all attachments.
2. For each service invoice provided in response to Request 1, identify the make, model, and year of the vehicle serviced, if it is not already stated on the invoice.
3. For each service invoice provided in response to Request 1, identify if the service provided bypassed, defeated, removed, or rendered inoperative the EGR, DPF, SCR, and/or catalyst.
4. Provide copies of invoices for all engine management products and exhaust products sold by CFDP between January 1, 2020, and March 1, 2020.

ENCLOSURE 5

STATEMENT OF CERTIFICATION

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001, 1341 and 1505.

(Signature)

(Printed Name)

(Title)

(Date)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

SENT VIA ELECTRONIC MAIL

Kellen M. Kukoly
Certified Diesel Power LLC
615 East Dixie Avenue, Suite 100
Elizabethtown, Kentucky 42701
sales@certifieddieselpower.com

Dear Mr. Kukoly:

Pursuant to Section 208(a) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7542(a), you are hereby required to provide the U.S. Environmental Protection Agency with information relating to Certified Diesel Power LLC's (CDP) business. The EPA is seeking this information to determine whether CDP is in compliance with requirements of Sections 203(a) and 213(d) of the Act, 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable motor vehicle regulations at 40 C.F.R. Parts 85, 86, and 1068.

The EPA issues this Request for Information under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA, Title II, Part A – Motor Vehicle Emission and Fuel Standards, Sections 202 – 219, 42 U.S.C. §§ 7521-7554, to perform tests and provide information necessary to determine whether the person is acting or has acted in compliance with the CAA and the regulations promulgated thereunder. The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, Region 4.

Please review the following enclosures and complete as appropriate: Instructions (Enclosure 1), Definitions (Enclosure 2), Claiming Confidentiality (Enclosure 3), Request for Information (Enclosure 4), Statement of Certification (Enclosure 5), and Service Performed Spreadsheet (Enclosure 6).

The requested information shall be submitted to the EPA electronically, per the instructions in Enclosure 1. The responses shall be submitted **no later than 30 calendar days** after CDP's receipt of this letter as determined by the date of the EPA's email transmitting this request. This information must be submitted electronically to the following individual:

Carrie Griffith
Air Enforcement Branch
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303
griffith.carrie@epa.gov

Failure to provide the information required by this letter is a violation of the Act and may result in one or more of the following actions: (1) commencement of a civil action seeking compliance with this request pursuant to Section 204 of the Act, 42 U.S.C. § 7523; (2) issuance of an administrative penalty order pursuant to Section 205(c) of the Act, 42 U.S.C. § 7424(c); (3) commencement of a civil action in accordance with Section 205(b) of the Act, 42 U.S.C. § 7524(b); and/or (4) any other action authorized under the Act.

Under Section 208(c) of the Act, 42 U.S.C. § 7542(c), and pursuant to the regulations found at 40 C.F.R. Part 2, Subpart B, including 40 C.F.R. § 2.301, you are entitled to assert a claim of business confidentiality for any information you provide to the EPA which you regard as confidential business information (CBI). For such information, you may request that the EPA treat such information as confidential. Any such claim of confidentiality must conform to the requirements of 40 C.F.R. § 2.203(b). Note that “emission data,” as defined by 40 C.F.R. § 2.301(a)(2), cannot be claimed as confidential under Section 208(c) of the Act, 42 U.S.C. § 7542(c). For detailed instructions for claiming confidentiality, please see Enclosure 3. Information you supply under a claim of confidentiality will be treated in accordance with 40 C.F.R. Part 2, Subpart B, and will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to CDP. Please note that any confidentiality claim does not obviate the need to send that portion of the response to the EPA.

The response to the information requested must be accompanied by Enclosure 5, Statement of Certification, which is to be signed and dated by a responsible official of CDP. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this request that are known to you, following a complete and thorough review of all information and sources available to you.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 – 3520, because it seeks information from specific individuals or entities as part of an investigation.

If you have any questions regarding this matter, please contact Carrie Griffith at 404-562-9175 or by email at griffith.carrie@epa.gov.

Sincerely,

Carol L. Kemker
Director
Enforcement and Compliance Assurance Division

Enclosures

ENCLOSURE 1

Instructions

1. Provide a separate response to each Request set forth in Enclosure 4.
2. Indicate on each document produced, or in some other reasonable manner, the number of the Request to which it corresponds. If a document is responsive to more than one Request, this must be so indicated and only one (1) version of the document needs to be provided.
3. The company shall submit documents in Portable Document Format (PDF) or in any other electronic format as specified in Enclosure 4. Do not create separate PDF files for each page of a single document.
4. Please provide your responses to Requests 2 and 3 in an unlocked, electronic spreadsheet format. For your convenience, the EPA has provided Enclosure 6 which consists of an Excel template in which you are requested to organize your responses to Requests 2 and 3. If Excel format is not available, then the format should allow for data to be imported and used in calculations by a standard spreadsheet program such as Excel.
5. Identify each person whom you relied on or consulted with in preparing your responses to each question of this information request. Provide their name, title, job duties and duration of employment with the company. If they are not an employee of the company, identify their employer and provide their name, title, job duties and duration of employment with their employer.
6. If requested information or documents are not known or are not available to you at the time of your response to this information request, but later become known or available to you, you must supplement your response to the EPA within 30 calendar days of discovery of the responsive information. Moreover, should you find at any time after submission of your response that any portion is or becomes false, incomplete or misrepresents the facts, you must provide the EPA with a corrected response as soon as possible.
7. Please submit your response to this Request to the EPA electronically. You may submit your response using any of the following options: A.) via email to griffith.carrie@epa.gov; B.) by requesting a link from the EPA for a secure file transfer site where you may upload your response; or C.) as electronic files on a USB drive or CD sent by mail to: Carrie Griffith, Air Enforcement Branch, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303. Please note, the EPA cannot receive compressed files (.zip) via email. If you wish to submit compressed files please select option B or C above.
8. Please do not send documents that you have claimed as confidential business information (CBI) to the EPA over the internet. If you have documents that you have claimed as CBI to submit please send them as electronic files on a USB drive or CD by mail (option C).

ENCLOSURE 2

Definitions

1. The term “affiliated organization” or “affiliate” means any organization or entity associated with Certified Diesel Power LLC as an agent, parent organization, predecessor corporation, sister company, subsidiary organization, or any organization or entity acting in lieu of you.
2. The term “catalyst(s)” means systems or devices which increase the rate of a chemical reaction but are not one of the original reactants or final products, *i.e.*, the catalyst is not consumed or altered in the reaction. The term “catalyst(s)” includes emission control catalysts such as diesel oxidation catalysts (“DOCs”), NO_x adsorber catalysts (“NACs”), and three-way catalysts (“TWCs”).
3. The term “DPF” refers to diesel particulate filters, which are exhaust aftertreatment devices that typically use a porous ceramic or cordierite substrate or metallic filter to physically trap particulate matter (“PM”) and remove it from the exhaust stream.
4. The term “element of design” means any control system (e.g., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine, as defined in 40 C.F.R. §§ 86.094-2 and 86.1803-01.
5. The term “electronic control module” or “ECM” means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. The ECM uses software programming including calculations and tables of information to provide the appropriate outputs. Multiple electronic control modules may be incorporated in a single unit to control various engine, vehicle, or equipment functions.
6. The term “engine management product” or “EM product” means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information stored within or used by an ECM. EM products include, but are not limited to, programmers, modules, tuners, ECM calibration tools, replacement ECMs, flash tools, or engine management products.
7. The term “emission related parts” means those parts installed for the specific purpose of controlling emissions, or those components, systems, or elements of design which must function properly to assure continued vehicle emission compliance, as defined in 40 C.F.R. § 85.2102.
8. The term “engine tune,” “tune,” or “calibration” means any combination of software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information, stored in any form, capable of affecting or controlling an ECM.
9. The term “entity” means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization or association.

10. The term “exhaust product” means exhaust components designed for use downstream from the exhaust port of a motor vehicle engine, and include, but are not limited to turbochargers, EGR block plates, EGR delete kits, EGR reroute kits, EGR solution kits, aftermarket EGR coolers, exhaust replacement pipes, downpipe-back exhaust systems, turbo-back exhaust systems, race pipes, test pipes and straight pipes.
11. The term “exhaust gas recirculation” or “EGR” means systems which redirect, usually by use of an EGR valve, a portion of engine exhaust back into the engine’s combustion chamber to cool and reduce peak combustion temperatures and pressures, thereby reducing the production of nitrogen oxides (“NOx”). The EGR system may include an EGR cooler to cool the recirculated exhaust to further reduce the combustion temperature.
12. The term “information” includes any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intraoffice communications, electronic mail (“email”), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting, or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, presentations, spreadsheets, and worksheets. The term “information” includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term “information” also includes any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back-up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. Information bearing any notation not part of the original text is considered to be separate information. A draft or non-identical copy is separate information within the meaning of this term.
13. The term “person” includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
14. The term “product” includes any software code, software, hardware, program, element of design, calibration, engine tune, EM product, device, part or component.
15. The term “you,” “your,” and “CDP” means Certified Diesel Power LLC, and any affiliates, predecessors, successors, assignees, agents, employees, representatives, investigators, accountants, auditors, attorneys, experts, consultants, and contractors. These terms shall also mean any others who are not listed above and are in possession, custody, or control (actual or constructive) of information relevant to this request or information that is otherwise available to Certified Diesel Power LLC, or who may have obtained information for or on behalf of Certified Diesel Power LLC.

16. The term “SCR” refers to the selective catalytic reduction system, which is an exhaust aftertreatment device designed to reduce NO_x emissions by injecting a liquid reagent through a catalyst.
17. The term “service” means any action to change, affect, modify, bypass, render inoperative, remove, download and/or install one or more part(s) or component(s) (*e.g.*, emission control components) or other item(s), including, but not limited to, engine parts, turbochargers, block plates, straight pipes, power packages, computer tuning, calibrations, elements of design, tuners, tunes, software, code, or devices.

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ENCLOSURE 3

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A. Assertion Requirements

You may assert a business confidentiality claim covering part or all of the information, other than emissions data and information or data that is otherwise publicly available, as described in 40 C.F.R. § 2.203(b). If no business confidentiality claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice. To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any information over which you make a claim of confidentiality should be marked by placing on or attaching to the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret” or “proprietary” or “business confidential” and a date if any when the information should no longer be treated as confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. Information covered by such a claim will be disclosed by the EPA only to the extent permitted and by means of the procedures set forth by Section 208(c) of the Act, and 40 C.F.R. Part 2, Subpart B.

B. Substantiation Requirements

All confidentiality claims are subject to the EPA verification and must be made in accordance with 40 C.F.R. Part 2, Subpart B. You bear the burden of substantiating your confidentiality claim and must satisfactorily show that disclosure of the information would be likely to cause substantial harm to your business’ competitive position; that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; and that the information is not and has not been reasonably obtainable by legitimate means without your consent, among other things. Conclusory allegations will be given little or no weight.

Before the EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, the EPA will send you a letter asking you to substantiate fully your CBI claim by answering 11 questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. You must provide the EPA with a response within the number of days set forth in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

The EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied. Any information not specifically identified as subject to a confidentiality claim may be disclosed without further notice to you. For each item or class of information that you identify as being confidential, the EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in the EPA’s determination:

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3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. For each item or category of information claimed as confidential, explain with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
8. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
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10. If you believe any information to be (a) trade secret (s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret (s).
11. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data).

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which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and (C) a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

ENCLOSURE 4

Request for Information

Certified Diesel Power LLC shall submit the following information to the EPA, pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, regarding certain parts or products that you either installed, serviced or sold between January 1, 2020, and March 1, 2020. For Requests 2 and 3, please submit your response using the Excel template provided as Enclosure 6, Service Performed Spreadsheet.

1. Provide a complete, unedited copy of every service invoice for each vehicle serviced by CDP between January 1, 2020, and March 1, 2020, including copies of all attachments.
2. For each service invoice provided in response to Request 1, identify the make, model, and year of the vehicle serviced, if it is not already stated on the invoice.
3. For each service invoice provided in response to Request 1, identify if the service provided bypassed, defeated, removed, or rendered inoperative the EGR, DPF, SCR, and/or catalyst.
4. Provide copies of invoices for all engine management products and exhaust products sold by CDP between January 1, 2020, and March 1, 2020.

ENCLOSURE 5

STATEMENT OF CERTIFICATION

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001, 1341 and 1505.

(Signature)

(Printed Name)

(Title)

(Date)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

SENT VIA ELECTRONIC MAIL

Brian R. Parker
IKT Diesel Performance, LLC
980 Hampton Lane
Milton, Kentucky 40045
iktdieselperformance@gmail.com

Dear Mr. Parker:

Pursuant to Section 208(a) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7542(a), you are hereby required to provide the U.S. Environmental Protection Agency with information relating to IKT Diesel Performance LLC's (IKT Diesel) business. The EPA is seeking this information to determine whether IKT Diesel is in compliance with requirements of Sections 203(a) and 213(d) of the Act, 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable motor vehicle regulations at 40 C.F.R. Parts 85, 86, and 1068.

The EPA issues this Request for Information under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA, Title II, Part A – Motor Vehicle Emission and Fuel Standards, Sections 202 – 219, 42 U.S.C. §§ 7521-7554, to perform tests and provide information necessary to determine whether the person is acting or has acted in compliance with the CAA and the regulations promulgated thereunder. The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, Region 4.

Please review the following enclosures and complete as appropriate: Instructions (Enclosure 1), Definitions (Enclosure 2), Claiming Confidentiality (Enclosure 3), Request for Information (Enclosure 4), Statement of Certification (Enclosure 5), and Service Performed Spreadsheet (Enclosure 6).

The requested information shall be submitted to the EPA electronically, per the instructions in Enclosure 1. The responses shall be submitted **no later than 30 calendar days** after IKT Diesel's receipt of this letter as determined by the date of the EPA's email transmitting this request. This information must be submitted electronically to the following individual:

Carrie Griffith
Air Enforcement Branch
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303
griffith.carrie@epa.gov

Failure to provide the information required by this letter is a violation of the Act and may result in one or more of the following actions: (1) commencement of a civil action seeking compliance with this request pursuant to Section 204 of the Act, 42 U.S.C. § 7523; (2) issuance of an administrative penalty order pursuant to Section 205(c) of the Act, 42 U.S.C. § 7424(c); (3) commencement of a civil action in accordance with Section 205(b) of the Act, 42 U.S.C. § 7524(b); and/or (4) any other action authorized under the Act.

Under Section 208(c) of the Act, 42 U.S.C. § 7542(c), and pursuant to the regulations found at 40 C.F.R. Part 2, Subpart B, including 40 C.F.R. § 2.301, you are entitled to assert a claim of business confidentiality for any information you provide to the EPA which you regard as confidential business information (CBI). For such information, you may request that the EPA treat such information as confidential. Any such claim of confidentiality must conform to the requirements of 40 C.F.R. § 2.203(b). Note that “emission data,” as defined by 40 C.F.R. § 2.301(a)(2), cannot be claimed as confidential under Section 208(c) of the Act, 42 U.S.C. § 7542(c). For detailed instructions for claiming confidentiality, please see Enclosure 3. Information you supply under a claim of confidentiality will be treated in accordance with 40 C.F.R. Part 2, Subpart B, and will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to IKT Diesel. Please note that any confidentiality claim does not obviate the need to send that portion of the response to the EPA.

The response to the information requested must be accompanied by Enclosure 5, Statement of Certification, which is to be signed and dated by a responsible official of IKT Diesel. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this request that are known to you, following a complete and thorough review of all information and sources available to you.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 – 3520, because it seeks information from specific individuals or entities as part of an investigation.

If you have any questions regarding this matter, please contact Carrie Griffith at 404-562-9175 or by email at griffith.carrie@epa.gov.

Sincerely,

Carol L. Kemker
Director
Enforcement and Compliance Assurance Division

Enclosures

ENCLOSURE 1

Instructions

1. Provide a separate response to each Request set forth in Enclosure 4.
2. Indicate on each document produced, or in some other reasonable manner, the number of the Request to which it corresponds. If a document is responsive to more than one Request, this must be so indicated and only one (1) version of the document needs to be provided.
3. The company shall submit documents in Portable Document Format (PDF) or in any other electronic format as specified in Enclosure 4. Do not create separate PDF files for each page of a single document.
4. Please provide your responses to Requests 2 and 3 in an unlocked, electronic spreadsheet format. For your convenience, the EPA has provided Enclosure 6 which consists of an Excel template in which you are requested to organize your responses to Requests 2 and 3. If Excel format is not available, then the format should allow for data to be imported and used in calculations by a standard spreadsheet program such as Excel.
5. Identify each person whom you relied on or consulted with in preparing your responses to each question of this information request. Provide their name, title, job duties and duration of employment with the company. If they are not an employee of the company, identify their employer and provide their name, title, job duties and duration of employment with their employer.
6. If requested information or documents are not known or are not available to you at the time of your response to this information request, but later become known or available to you, you must supplement your response to the EPA within 30 calendar days of discovery of the responsive information. Moreover, should you find at any time after submission of your response that any portion is or becomes false, incomplete or misrepresents the facts, you must provide the EPA with a corrected response as soon as possible.
7. Please submit your response to this Request to the EPA electronically. You may submit your response using any of the following options: A.) via email to griffith.carrie@epa.gov; B.) by requesting a link from the EPA for a secure file transfer site where you may upload your response; or C.) as electronic files on a USB drive or CD sent by mail to: Carrie Griffith, Air Enforcement Branch, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303. Please note, the EPA cannot receive compressed files (.zip) via email. If you wish to submit compressed files please select option B or C above.
8. Please do not send documents that you have claimed as confidential business information (CBI) to the EPA over the internet. If you have documents that you have claimed as CBI to submit please send them as electronic files on a USB drive or CD by mail (option C).

ENCLOSURE 2

Definitions

1. The term “affiliated organization” or “affiliate” means any organization or entity associated with IKT Diesel Performance LLC as an agent, parent organization, predecessor corporation, sister company, subsidiary organization, or any organization or entity acting in lieu of you.
2. The term “catalyst(s)” means systems or devices which increase the rate of a chemical reaction but are not one of the original reactants or final products, *i.e.*, the catalyst is not consumed or altered in the reaction. The term “catalyst(s)” includes emission control catalysts such as diesel oxidation catalysts (“DOCs”), NO_x adsorber catalysts (“NACs”), and three-way catalysts (“TWCs”).
3. The term “DPF” refers to diesel particulate filters, which are exhaust aftertreatment devices that typically use a porous ceramic or cordierite substrate or metallic filter to physically trap particulate matter (“PM”) and remove it from the exhaust stream.
4. The term “element of design” means any control system (e.g., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine, as defined in 40 C.F.R. §§ 86.094-2 and 86.1803-01.
5. The term “electronic control module” or “ECM” means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. The ECM uses software programming including calculations and tables of information to provide the appropriate outputs. Multiple electronic control modules may be incorporated in a single unit to control various engine, vehicle, or equipment functions.
6. The term “engine management product” or “EM product” means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information stored within or used by an ECM. EM products include, but are not limited to, programmers, modules, tuners, ECM calibration tools, replacement ECMs, flash tools, or engine management products.
7. The term “emission related parts” means those parts installed for the specific purpose of controlling emissions, or those components, systems, or elements of design which must function properly to assure continued vehicle emission compliance, as defined in 40 C.F.R. § 85.2102.
8. The term “engine tune,” “tune,” or “calibration” means any combination of software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information, stored in any form, capable of affecting or controlling an ECM.
9. The term “entity” means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization or association.

10. The term “exhaust product” means exhaust components designed for use downstream from the exhaust port of a motor vehicle engine, and include, but are not limited to turbochargers, EGR block plates, EGR delete kits, EGR reroute kits, EGR solution kits, aftermarket EGR coolers, exhaust replacement pipes, downpipe-back exhaust systems, turbo-back exhaust systems, race pipes, test pipes and straight pipes.
11. The term “exhaust gas recirculation” or “EGR” means systems which redirect, usually by use of an EGR valve, a portion of engine exhaust back into the engine’s combustion chamber to cool and reduce peak combustion temperatures and pressures, thereby reducing the production of nitrogen oxides (“NOx”). The EGR system may include an EGR cooler to cool the recirculated exhaust to further reduce the combustion temperature.
12. The term “information” includes any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intraoffice communications, electronic mail (“email”), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting, or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, presentations, spreadsheets, and worksheets. The term “information” includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term “information” also includes any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back-up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. Information bearing any notation not part of the original text is considered to be separate information. A draft or non-identical copy is separate information within the meaning of this term.
13. The term “person” includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
14. The term “product” includes any software code, software, hardware, program, element of design, calibration, engine tune, EM product, device, part or component.
15. The term “you,” “your,” and “IKT Diesel” means IKT Diesel Performance LLC, and any affiliates, predecessors, successors, assignees, agents, employees, representatives, investigators, accountants, auditors, attorneys, experts, consultants, and contractors. These terms shall also mean any others who are not listed above and are in possession, custody, or control (actual or constructive) of information relevant to this request or information that is otherwise available to IKT Diesel Performance LLC, or who may have obtained information for or on behalf of IKT Diesel Performance LLC.

16. The term “SCR” refers to the selective catalytic reduction system, which is an exhaust aftertreatment device designed to reduce NO_x emissions by injecting a liquid reagent through a catalyst.
17. The term “service” means any action to change, affect, modify, bypass, render inoperative, remove, download and/or install one or more part(s) or component(s) (*e.g.*, emission control components) or other item(s), including, but not limited to, engine parts, turbochargers, block plates, straight pipes, power packages, computer tuning, calibrations, elements of design, tuners, tunes, software, code, or devices.

All terms not defined in this enclosure have their ordinary meaning, unless such terms are defined in the Clean Air Act and/or its implementing regulations, and in which case the statutory and/or regulatory definitions apply. Words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions. The terms “and” and “or” shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this information request any information which might otherwise be construed to be outside its scope.

ENCLOSURE 3

Confidential Business Information (CBI) Assertion and Substantiation Requirements

A. Assertion Requirements

You may assert a business confidentiality claim covering part or all of the information, other than emissions data and information or data that is otherwise publicly available, as described in 40 C.F.R. § 2.203(b). If no business confidentiality claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice. To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any information over which you make a claim of confidentiality should be marked by placing on or attaching to the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret” or “proprietary” or “business confidential” and a date if any when the information should no longer be treated as confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. Information covered by such a claim will be disclosed by the EPA only to the extent permitted and by means of the procedures set forth by Section 208(c) of the Act, and 40 C.F.R. Part 2, Subpart B.

B. Substantiation Requirements

All confidentiality claims are subject to the EPA verification and must be made in accordance with 40 C.F.R. Part 2, Subpart B. You bear the burden of substantiating your confidentiality claim and must satisfactorily show that disclosure of the information would be likely to cause substantial harm to your business’ competitive position; that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; and that the information is not and has not been reasonably obtainable by legitimate means without your consent, among other things. Conclusory allegations will be given little or no weight.

Before the EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, the EPA will send you a letter asking you to substantiate fully your CBI claim by answering 11 questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. You must provide the EPA with a response within the number of days set forth in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

The EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied. Any information not specifically identified as subject to a confidentiality claim may be disclosed without further notice to you. For each item or class of information that you identify as being confidential, the EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in the EPA’s determination:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. For each item or category of information claimed as confidential, explain with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
8. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
9. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.
10. If you believe any information to be (a) trade secret (s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret (s).
11. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data).

Please note that emission data provided under Section 208 of the Act, 42 U.S.C. § 7542, is not entitled to confidential treatment under 40 C.F.R. Part 2. "Emission data" means, with reference to any source of emission of any substance into the air - (A) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing; (B) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions

which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and (C) a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

ENCLOSURE 4

Request for Information

IKT Diesel Performance LLC shall submit the following information to the EPA, pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, regarding certain parts or products that you either installed, serviced or sold between January 1, 2020, and March 1, 2020. For Requests 2 and 3, please submit your response using the Excel template provided as Enclosure 6, Service Performed Spreadsheet.

1. Provide a complete, unedited copy of every service invoice for each vehicle serviced by IKT Diesel between January 1, 2020, and March 1, 2020, including copies of all attachments.
2. For each service invoice provided in response to Request 1, identify the make, model, and year of the vehicle serviced, if it is not already stated on the invoice.
3. For each service invoice provided in response to Request 1, identify if the service provided bypassed, defeated, removed, or rendered inoperative the EGR, DPF, SCR, and/or catalyst.
4. Provide copies of invoices for all engine management products and exhaust products sold by IKT Diesel between January 1, 2020, and March 1, 2020.

ENCLOSURE 5

STATEMENT OF CERTIFICATION

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001, 1341 and 1505.

(Signature)

(Printed Name)

(Title)

(Date)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET SW
ATLANTA, GEORGIA 30303-8960

SENT VIA ELECTRONIC MAIL

Nathan Blackwell, President
NCB Diesel and Offroad
830 Park Avenue
Youngsville, North Carolina 27596
ncbdiesel@gmail.com

Dear Mr. Blackwell:

Pursuant to Section 208(a) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7542(a), you are hereby required to provide the U.S. Environmental Protection Agency with information relating to NCB Inc's (NCB Diesel) business. The EPA is seeking this information to determine whether NCB Diesel is in compliance with the requirements of Sections 203(a) and 213(d) of the Act, 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable motor vehicle regulations at 40 C.F.R. Parts 85, 86, and 1068.

The EPA issues this Request for Information under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA, Title II, Part A – Motor Vehicle Emission and Fuel Standards, Sections 202 – 219, 42 U.S.C. §§ 7521-7554, to perform tests and provide information necessary to determine whether the person is acting or has acted in compliance with the CAA and the regulations promulgated thereunder. The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, Region 4.

Please review the following enclosures and complete as appropriate: Instructions (Enclosure 1), Definitions (Enclosure 2), Claiming Confidentiality (Enclosure 3), Request for Information (Enclosure 4), Statement of Certification (Enclosure 5), and Service and Sales Spreadsheet (Enclosure 6).

The requested information shall be submitted to the EPA electronically, per the instructions in Enclosure 1. The responses shall be submitted **no later than 30 calendar days** after NCB Diesel's receipt of this letter as determined by the date of the EPA's electronic mail transmitting this request, unless the EPA, for good cause shown, extends in writing the deadline for responding to this request. This information must be submitted electronically to the following individual:

Carrie Griffith
Environmental Engineer
Air Enforcement Branch
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303
griffith.carrie@epa.gov

Failure to provide the information required by this letter is a violation of the Act and may result in one or more of the following actions: (1) commencement of a civil action seeking compliance with this request pursuant to Section 204 of the Act, 42 U.S.C. § 7523; (2) issuance of an administrative penalty order pursuant to Section 205(c) of the Act, 42 U.S.C. § 7424(c); (3) commencement of a civil action in accordance with Section 205(b) of the Act, 42 U.S.C. § 7524(b); and/or (4) any other action authorized under the Act.

Under Section 208(c) of the Act, 42 U.S.C. § 7542(c), and pursuant to the regulations found at 40 C.F.R. Part 2, Subpart B, including 40 C.F.R. § 2.301, you are entitled to assert a claim of business confidentiality for any information you provide to the EPA which you regard as confidential business information (CBI). For such information, you may request that the EPA treat such information as confidential. Any such claim of confidentiality must conform to the requirements of 40 C.F.R. § 2.203(b). Note that “emission data,” as defined by 40 C.F.R. § 2.301(a)(2), cannot be claimed as confidential under Section 208(c) of the Act, 42 U.S.C. § 7542(c). For detailed instructions for claiming confidentiality, please see Enclosure 3. Information you supply under a claim of confidentiality will be treated in accordance with 40 C.F.R. Part 2, Subpart B, and will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to NCB Diesel. Please note that any confidentiality claim does not obviate the need to send that portion of the response to the EPA.

The response to the information requested must be accompanied by Enclosure 5, Statement of Certification, which is to be signed and dated by a responsible official of NCB Diesel. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this request that are known to you, following a complete and thorough review of all information and sources available to you.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 – 3520, because it seeks information from specific individuals or entities as part of an investigation.

If you have any questions regarding this matter, please contact Carrie Griffith at 404-562-9175 or by email at griffith.carrie@epa.gov.

Sincerely,

Carol L. Kemker
Director
Enforcement and Compliance Assurance Division

Enclosures

ENCLOSURE 1

Instructions

1. Provide a separate response to each Request set forth in Enclosure 4.
2. Indicate on each document produced, or in some other reasonable manner, the number of the Request to which it corresponds. If a document is responsive to more than one Request, this must be so indicated and only one (1) version of the document needs to be provided.
3. The company shall submit documents in Portable Document Format (PDF) or in any other electronic format as specified in Enclosure 4. Do not create separate PDF files for each page of a single document.
4. Please provide your responses to Requests 2 through 4 in an unlocked, electronic spreadsheet format. For your convenience, the EPA has provided Enclosure 6 which consists of an Excel template in which you are requested to organize your responses to Requests 2 through 4. If Excel format is not available, then the format should allow for data to be imported and used in calculations by a standard spreadsheet program such as Excel.
5. Identify each person whom you relied on or consulted with in preparing your responses to each question of this information request. Provide their name, title, job duties, and duration of employment with the company. If they are not an employee of the company, identify their employer and provide their name, title, job duties, and duration of employment with their employer.
6. If requested information or documents are not known or are not available to you at the time of your response to this information request, but later become known or available to you, you must supplement your response to the EPA within 30 calendar days of discovery of the responsive information. Moreover, should you find at any time after your submission of your response that any portion is or becomes false, incomplete, or misrepresents the facts, you must provide the EPA with a corrected response as soon as possible.
7. Please submit your response to this Request to the EPA electronically. You may submit your response using any of the following options: A.) via email to griffith.carrie@epa.gov; B.) by requesting a link from the EPA for a secure file transfer site where you may upload your response; or C.) as electronic files on a USB drive or CD sent by mail to: Carrie Griffith, Air Enforcement Branch, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia, 30303. Please note, the EPA cannot receive compressed files (.zip) via email. If you wish to submit compressed files, please select option B or C above.
8. Please do not send documents that you have claimed as confidential business information (CBI) to the EPA over the internet. If you have documents that you have claimed as CBI to submit, please send them as electronic files on a USB drive or CD by mail (option C).
9. Prior to submitting your response, please send an email to Carrie Griffith at griffith.carrie@epa.gov indicating which option or combination of options (A, B, and/or C) you have selected to submit your response to this request.

ENCLOSURE 2

Definitions

1. The term “affiliated organization” or “affiliate” means any organization or entity associated with NCB Diesel as an agent, parent organization, predecessor corporation, sister company, subsidiary organization, or any organization or entity acting in lieu of you.
2. The term “catalysts” means systems of devices which increase the rate of a chemical reaction but are not one of the original reactants or final products, *i.e.*, the catalyst is not consumed or altered in the reaction. The term “catalysts” includes emission control catalysts such as diesel oxidation catalysts (“DOCs”), NOx adsorber catalysts (“NACs”), and three-way catalysts (“TWCs”).
3. The term “DPF” refers to diesel particulate filters, which are exhaust aftertreatment devices that typically use a porous ceramic or cordierite substrate or metallic filter to physically trap particulate matter (“PM”) and remove it from the exhaust stream.
4. The term “element of design” means any control system (e.g., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine, as defined in 40 C.F.R. §§ 86.094-2 and 86.1803-01.
5. The term “electronic control module” or “ECM” means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. The ECM uses software programming including calculations and tables of information to provide the appropriate outputs. Multiple electronic control modules may be incorporated in a single unit to control various engine, vehicle, or equipment functions.
6. The term “engine management product” or “EM product” means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information stored within or used by an ECM. EM products include, but are not limited to, programmers, modules, tuners, tunes, ECM calibration tools, replacement ECMs, and flash tools.
7. The term “emission related parts” means those parts installed for the specific purpose of controlling emissions, or those components, systems, or elements of design which must function properly to assure continued vehicle emission compliance, as defined in 40 C.F.R. § 85.2102.
8. The term “engine tune,” “tune,” or “calibration” means any combination of software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information, stored in any form, capable of affecting or controlling an ECM.
9. The term “entity” means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization or association.
10. The term “exhaust product” means exhaust components designed for use downstream from the exhaust port of a motor vehicle engine, and include, but are not limited to turbochargers, EGR block plates, EGR delete kits, EGR reroute kits, EGR solution kits, aftermarket EGR coolers, exhaust

replacement pipes, downpipe-back exhaust systems, turbo-back exhaust systems, race pipes, test pipes and straight pipes.

11. The term “exhaust gas recirculation” or “EGR” means systems which redirect, usually by use of an EGR valve, a portion of engine exhaust back into the engine’s combustion chamber to cool and reduce peak combustion temperatures and pressures, thereby reducing the production of nitrogen oxides (“NO_x”). The EGR system may include an EGR cooler to cool the recirculated exhaust to further reduce the combustion temperature.
12. The term “information” includes any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intraoffice communications, electronic mail (“email”), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting, or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, presentations, spreadsheets, and worksheets. The term “information” includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term “information” also includes any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back-up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. Information bearing any notation not part of the original text is considered to be separate information. A draft or non-identical copy is separate information within the meaning of this term.
13. The term “person” includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
14. The term “product” includes any software code, software, hardware, program, element of design, calibration, engine tune, EM product, device, part or component.
15. The term “you,” “your,” and “NCB Diesel” means NCB Inc dba NCB Diesel and Offroad, and any affiliates, predecessors, successors, assignees, agents, employees, representatives, investigators, accountants, auditors, attorneys, experts, consultants, and contractors. These terms shall also mean any others who are not listed above and are in possession, custody, or control (actual or constructive) of information relevant to this request or information that is otherwise available to NCB Diesel and Offroad, or who may have obtained information for or on behalf of NCB Diesel and Offroad.
16. The term “SCR” refers to the selective catalytic reduction system, which is an exhaust aftertreatment device designed to reduce NO_x emissions by injecting a liquid reagent through a catalyst.

17. The term “service” means any action to change, affect, modify, bypass, render inoperative, remove, download and/or install one or more part(s) or component(s) (*e.g.*, emission control components) or other item(s), including, but not limited to, engine parts, turbochargers, block plates, straight pipes, power packages, computer tuning, calibrations, elements of design, tuners, tunes, software, code, or devices.

All terms not defined in this enclosure have their ordinary meaning, unless such terms are defined in the Clean Air Act and/or its implementing regulations, and in which case the statutory and/or regulatory definitions apply. Words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions. The terms “and” and “or” shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this information request any information which might otherwise be construed to be outside its scope.

ENCLOSURE 3

Confidential Business Information (CBI) Assertion and Substantiation Requirements

A. Assertion Requirements

You may assert a business confidentiality claim covering part or all of the information, other than emissions data and information or data that is otherwise publicly available, as described in 40 C.F.R. § 2.203(b). If no business confidentiality claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice. To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any information over which you make a claim of confidentiality should be marked by placing on or attaching to the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret” or “proprietary” or “business confidential” and a date if any when the information should no longer be treated as confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. Information covered by such a claim will be disclosed by the EPA only to the extent permitted and by means of the procedures set forth by Section 114(c) of the Act, and 40 C.F.R. Part 2, Subpart B. The EPA will construe the failure to furnish a confidentiality claim with your response to the attached letter as a waiver of that claim, and the information may be made available to the public without further notice to you.

Please segregate personnel, medical and similar files from your responses and include that information on separate sheet(s) marked as “Personal Privacy Information” given that disclosure of such information to the general public may constitute an invasion of privacy.

B. Substantiation Requirements

All confidentiality claims are subject to EPA verification and must be made in accordance with 40 C.F.R. Part 2, Subpart B.¹ You bear the burden of substantiating your confidentiality claim and must satisfactorily show, among other things, that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so and that the information is not, and has not been, reasonably obtainable by legitimate means without your consent. Conclusory allegations will be given little or no weight.

Before the EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, the EPA will send you a letter asking you to substantiate fully your CBI claim by answering several questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. You must provide the EPA with a response within the number of days set forth

¹ 40 C.F.R. § 2.208(e) conflicts with the holding in *Food Marketing Institute v. Argus Leader Media*, 139 S. Ct. 2356, 2366 (2019) (*Argus Leader*). In light of the *Argus Leader* decision, the Agency will not consider 40 C.F.R. § 2.208(e) in this determination. The Agency anticipates amending 40 C.F.R. § 2.208 so that it is consistent with the decision in *Argus Leader*.

in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

The EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied.. For each item or class of information that you identify as being confidential, the EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in the EPA's determination:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
8. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.
9. If you believe any information to be (a) trade secret (s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret (s).

10. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data or effluent data).

Please note that emission data provided under Section 208 of the Act, 42 U.S.C. § 7542, is *not* entitled to confidential treatment under Section 208(c) of the Act, 42 U.S.C. § 7542(c) or 40 C.F.R. Part 2.

“Emission data” means, with reference to any source of emission of any substance into the air - (A) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing; (B) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and (C) a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source). 40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

Information designated confidential will be disclosed by EPA only to the extent allowed by, and by means of procedures set forth in, 40 C.F.R. Part 2, Subpart B. If you fail to claim the information as confidential, it may be made available to the public without further notice to you.

ENCLOSURE 4

Request for Information

NCB Diesel and Offroad shall submit the following information to the EPA, pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, regarding certain parts or products that you installed, serviced or sold during the period from November 1, 2020 to February 1, 2021. For Requests 2 through 4, please submit your response using the template provided as Enclosure 6, Service and Sales Spreadsheet.

1. Provide a complete, unedited copy of every service invoice for each vehicle serviced by NCB Diesel from November 1, 2020 to February 1, 2021, including copies of all attachments.
2. For each service invoice provided in response to Request 1, identify the type of service performed and the make, model, and year of the vehicle serviced in Enclosure 6, worksheet 1.
3. For each service invoice provided in response to Request 1, identify if the service bypassed, defeated, removed, or rendered inoperative the EGR, DPF, SCR, and/or catalyst in Enclosure 6, worksheet 1.
4. For each exhaust product and engine management product, including all tuners and tunes, sold by NCB Diesel during the period from November 1, 2020 to February 1, 2021, provide the following information in Enclosure 6, worksheet 2:
 - a. Part number, item code, or other unique identifier used by NCB Diesel;
 - b. Product name;
 - c. Product manufacturer;
 - d. Product's application by vehicle type, make, model, and year;
 - e. Quantity sold by NCB Diesel from November 1, 2020 to February 1, 2021;
 - f. Quantity installed by NCB Diesel from November 1, 2020 to February 1, 2021; and
 - g. Is the product designed or intended to permanently or temporarily bypass, defeat, or render inoperative a motor vehicle's emission related parts, including but not limited to the EGR, DPF, SCR, catalyst, or OBD? If yes, which one?
5. Provide a detailed, written description of NCB Diesel's business structure, including ownership, corporate form, parent, sister and/or subsidiary companies, and affiliated organizations.
6. Provide the name, address, telephone number, website address (URL), and email address for any manufacturer, wholesaler, dealer, or retailer from whom NCB Diesel has purchased engine management products, exhaust products, and/or tunes during the period from November 1, 2020 to February 1, 2021.

ENCLOSURE 5

STATEMENT OF CERTIFICATION

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001, 1341 and 1505.

(Signature)

(Printed Name)

(Title)

(Date)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

SENT VIA ELECTRONIC MAIL

Jennifer Scharsch, Owner
Swamps Motorsports
920 Esther Lane
Murfreesboro, Tennessee 37129
darmstrong@swampsmotorsports.com

Dear Ms. Scharsch:

Pursuant to Section 208(a) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7542(a), you are hereby required to provide the U.S. Environmental Protection Agency with information relating to Swamps Motorsports (Swamps) business. The EPA is seeking this information to determine whether Swamps Motorsports is in compliance with requirements of Sections 203(a) and 213(d) of the Act, 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable motor vehicle regulations at 40 C.F.R. Parts 85, 86, and 1068.

The EPA issues this Request for Information under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA, Title II, Part A – Motor Vehicle Emission and Fuel Standards, Sections 202 – 219, 42 U.S.C. §§ 7521-7554, to perform tests and provide information necessary to determine whether the person is acting or has acted in compliance with the CAA and the regulations promulgated thereunder. The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, Region 4.

Please review the following enclosures and complete as appropriate: Instructions (Enclosure 1), Definitions (Enclosure 2), Claiming Confidentiality (Enclosure 3), Request for Information (Enclosure 4), Statement of Certification (Enclosure 5), and Service Performed Spreadsheet (Enclosure 6).

The requested information shall be submitted to the EPA electronically, per the instructions in Enclosure 1. The responses shall be submitted **no later than 30 calendar days** after Swamps Motorsports receipt of this letter as determined by the date of the EPA's email transmitting this request. This information must be submitted electronically to the following individual:

Sharron Porter
Air Enforcement Branch
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303
Porter.Sharron@epa.gov

Failure to provide the information required by this letter is a violation of the Act and may result in one or more of the following actions: (1) commencement of a civil action seeking compliance with this request pursuant to Section 204 of the Act, 42 U.S.C. § 7523; (2) issuance of an administrative penalty order pursuant to Section 205(c) of the Act, 42 U.S.C. § 7424(c); (3) commencement of a civil action in accordance with Section 205(b) of the Act, 42 U.S.C. § 7524(b); and/or (4) any other action authorized under the Act.

Under Section 208(c) of the Act, 42 U.S.C. § 7542(c), and pursuant to the regulations found at 40 C.F.R. Part 2, Subpart B, including 40 C.F.R. § 2.301, you are entitled to assert a claim of business confidentiality for any information you provide to the EPA which you regard as confidential business information (CBI). For such information, you may request that the EPA treat such information as confidential. Any such claim of confidentiality must conform to the requirements of 40 C.F.R. § 2.203(b). Note that “emission data,” as defined by 40 C.F.R. § 2.301(a)(2), cannot be claimed as confidential under Section 208(c) of the Act, 42 U.S.C. § 7542(c). For detailed instructions for claiming confidentiality, please see Enclosure 3. Information you supply under a claim of confidentiality will be treated in accordance with 40 C.F.R. Part 2, Subpart B, and will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to Swamps Motorsports. Please note that any confidentiality claim does not obviate the need to send that portion of the response to the EPA.

The response to the information requested must be accompanied by Enclosure 5, Statement of Certification, which is to be signed and dated by a responsible official of Swamps Motorsports. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this request that are known to you, following a complete and thorough review of all information and sources available to you.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 – 3520, because it seeks information from specific individuals or entities as part of an investigation.

If you have any questions regarding this matter, please contact Sharron Porter at (404) 562-9172 or by email at Porter.Sharron@epa.gov.

Sincerely,

Carol L. Kemker
Director
Enforcement and Compliance Assurance Division

Enclosures

ENCLOSURE 1

Instructions

1. Provide a separate response to each Request set forth in Enclosure 4.
2. Indicate on each document produced, or in some other reasonable manner, the number of the Request to which it corresponds. If a document is responsive to more than one Request, this must be so indicated and only one (1) version of the document needs to be provided.
3. The company shall submit documents in Portable Document Format (PDF) or in any other electronic format as specified in Enclosure 4. Do not create separate PDF files for each page of a single document.
4. Please provide your responses to Requests 2 and 3 in an unlocked, electronic spreadsheet format. For your convenience, the EPA has provided Enclosure 6 which consists of an Excel template in which you are requested to organize your responses to Requests 2 and 3. If Excel format is not available, then the format should allow for data to be imported and used in calculations by a standard spreadsheet program such as Excel.
5. Identify each person whom you relied on or consulted with in preparing your responses to each question of this information request. Provide their name, title, job duties and duration of employment with the company. If they are not an employee of the company, identify their employer and provide their name, title, job duties and duration of employment with their employer.
6. If requested information or documents are not known or are not available to you at the time of your response to this information request, but later become known or available to you, you must supplement your response to the EPA within 30 calendar days of discovery of the responsive information. Moreover, should you find at any time after submission of your response that any portion is or becomes false, incomplete or misrepresents the facts, you must provide the EPA with a corrected response as soon as possible.
7. Please submit your response to this Request to the EPA electronically. You may submit your response using any of the following options: A.) via email to Porter.Sharron@epa.gov; B.) by requesting a link from the EPA for a secure file transfer site where you may upload your response; or C.) as electronic files on a USB drive or CD sent by mail to: Sharron Porter, Air Enforcement Branch, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303. Please note, the EPA cannot receive compressed files (.zip) via email. If you wish to submit compressed files please select option B or C above.
8. Please do not send documents that you have claimed as confidential business information (CBI) to the EPA over the internet. If you have documents that you have claimed as CBI to submit please send them as electronic files on a USB drive or CD by mail (option C).
9. Prior to submitting your response, please send an email to Sharron Porter at Porter.Sharron@epa.gov indicating which option or combination of options (A, B, and/or C) you have selected to submit your response to this request.

ENCLOSURE 2

Definitions

1. The term “affiliated organization” or “affiliate” means any organization or entity associated with Swamps as an agent, parent organization, predecessor corporation, sister company, subsidiary organization, or any organization or entity acting in lieu of you.
2. The term “catalyst(s)” means systems or devices which increase the rate of a chemical reaction but are not one of the original reactants or final products, *i.e.*, the catalyst is not consumed or altered in the reaction. The term “catalyst(s)” includes emission control catalysts such as diesel oxidation catalysts (“DOCs”), NO_x adsorber catalysts (“NACs”), and three-way catalysts (“TWCs”).
3. The term “DPF” refers to diesel particulate filters, which are exhaust aftertreatment devices that typically use a porous ceramic or cordierite substrate or metallic filter to physically trap particulate matter (“PM”) and remove it from the exhaust stream.
4. The term “element of design” means any control system (e.g., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine, as defined in 40 C.F.R. §§ 86.094-2 and 86.1803-01.
5. The term “electronic control module” or “ECM” means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. The ECM uses software programming including calculations and tables of information to provide the appropriate outputs. Multiple electronic control modules may be incorporated in a single unit to control various engine, vehicle, or equipment functions.
6. The term “engine management product” or “EM product” means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information stored within or used by an ECM. EM products include, but are not limited to, programmers, modules, tuners, ECM calibration tools, replacement ECMs, flash tools, or engine management products.
7. The term “emission related parts” means those parts installed for the specific purpose of controlling emissions, or those components, systems, or elements of design which must function properly to assure continued vehicle emission compliance, as defined in 40 C.F.R. § 85.2102.
8. The term “engine tune,” “tune,” or “calibration” means any combination of software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information, stored in any form, capable of affecting or controlling an ECM.
9. The term “entity” means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization or association.

10. The term “exhaust product” means exhaust components designed for use downstream from the exhaust port of a motor vehicle engine, and include, but are not limited to turbochargers, EGR block plates, EGR delete kits, EGR reroute kits, EGR solution kits, aftermarket EGR coolers, exhaust replacement pipes, downpipe-back exhaust systems, turbo-back exhaust systems, race pipes, test pipes and straight pipes.
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12. The term “information” includes any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intraoffice communications, electronic mail (“email”), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting, or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, presentations, spreadsheets, and worksheets. The term “information” includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term “information” also includes any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back-up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. Information bearing any notation not part of the original text is considered to be separate information. A draft or non-identical copy is separate information within the meaning of this term.
13. The term “person” includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
14. The term “product” includes any software code, software, hardware, program, element of design, calibration, engine tune, EM product, device, part or component.
15. The term “you,” “your,” “Swamps Motorsports,” and “Swamps” means Swamps Motorsports, Bounds Performance, Inc., its parent corporation(s), subsidiaries and affiliates, the addressee of this Request, and the officers, managers, employees, contractors, trustees, partners, successors, assigns, and agents of the above corporations. These terms shall also mean any others who are not listed above and are in possession, custody, or control (actual or constructive) of information relevant to this Request or information that is otherwise available to Swamps Motorsports, or who may have obtained information for or on behalf of Swamps Motorsports.

16. The term “service” means any action to change, affect, modify, bypass, render inoperative, remove, download and/or install one or more part(s) or component(s) (*e.g.*, emission control components) or other item(s), including, but not limited to, engine parts, turbochargers, block plates, straight pipes, power packages, computer tuning, calibrations, elements of design, tuners, tunes, software, code, or devices.
17. The term “SCR” refers to the selective catalytic reduction system, which is an exhaust aftertreatment device designed to reduce NO_x emissions by injecting a liquid reagent through a catalyst.

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You may assert a business confidentiality claim covering part or all of the information, other than emissions data and information or data that is otherwise publicly available, as described in 40 C.F.R. § 2.203(b). If no business confidentiality claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice. To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any information over which you make a claim of confidentiality should be marked by placing on or attaching to the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret” or “proprietary” or “business confidential” and a date if any when the information should no longer be treated as confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. Information covered by such a claim will be disclosed by the EPA only to the extent permitted and by means of the procedures set forth by Section 208(c) of the Act, and 40 C.F.R. Part 2, Subpart B.

B. Substantiation Requirements

All confidentiality claims are subject to the EPA verification and must be made in accordance with 40 C.F.R. Part 2, Subpart B. You bear the burden of substantiating your confidentiality claim and must satisfactorily show that disclosure of the information would be likely to cause substantial harm to your business’ competitive position; that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; and that the information is not and has not been reasonably obtainable by legitimate means without your consent, among other things. Conclusory allegations will be given little or no weight.

Before the EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, the EPA will send you a letter asking you to substantiate fully your CBI claim by answering 11 questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. You must provide the EPA with a response within the number of days set forth in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

The EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied. Any information not specifically identified as subject to a confidentiality claim may be disclosed without further notice to you. For each item or class of information that you identify as being confidential, the EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in the EPA’s determination:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. For each item or category of information claimed as confidential, explain with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
8. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
9. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.
10. If you believe any information to be (a) trade secret (s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret (s).
11. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data).

Please note that emission data provided under Section 208 of the Act, 42 U.S.C. § 7542, is not entitled to confidential treatment under 40 C.F.R. Part 2. "Emission data" means, with reference to any source of emission of any substance into the air - (A) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing; (B) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions

which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and (C) a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

ENCLOSURE 4

Request for Information

Swamps Motorsports shall submit the following information to the EPA, pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, regarding certain parts or products that you either installed, serviced or sold between January 1, 2020, and March 1, 2020. For Requests 2 and 3, please submit your response using the Excel template provided as Enclosure 6, Service Performed Spreadsheet.

1. Provide a complete, unedited copy of every service invoice for each vehicle serviced by Swamps Motorsports between January 1, 2020, and March 1, 2020, including copies of all attachments.
2. For each service invoice provided in response to Request 1, identify the make, model, and year of the vehicle serviced, if it is not already stated on the invoice.
3. For each service invoice provided in response to Request 1, identify if the service provided bypassed, defeated, removed, or rendered inoperative the EGR, DPF, SCR, and/or catalyst.
4. Provide copies of invoices for all engine management products and exhaust products sold by Swamps Motorsports between January 1, 2020, and March 1, 2020, including any online sales.

ENCLOSURE 5

STATEMENT OF CERTIFICATION

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001, 1341 and 1505.

(Signature)

(Printed Name)

(Title)

(Date)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET SW
ATLANTA, GEORGIA 30303-8960

SENT VIA ELECTRONIC MAIL

Emil Nacnac
Nacs Performance Diesel LLC
4460 107th Circle North
Clearwater, Florida 33762
emil.nacnac@gmail.com

Dear Mr. Nacnac:

Pursuant to Section 208(a) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7542(a), you are hereby required to provide the U.S. Environmental Protection Agency with information relating to Nacs Performance Diesel LLC (NPD) business. The EPA is seeking this information to determine whether NPD is in compliance with the requirements of Sections 203(a) and 213(d) of the Act, 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable motor vehicle regulations at 40 C.F.R. Parts 85, 86, and 1068.

The EPA issues this Request for Information under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA, Title II, Part A – Motor Vehicle Emission and Fuel Standards, Sections 202 – 219, 42 U.S.C. §§ 7521-7554, to perform tests and provide information necessary to determine whether the person is acting or has acted in compliance with the CAA and the regulations promulgated thereunder. The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, Region 4.

Please review the following enclosures and complete as appropriate: Instructions (Enclosure 1), Definitions (Enclosure 2), Claiming Confidentiality (Enclosure 3), Request for Information (Enclosure 4), Statement of Certification (Enclosure 5), and Service Spreadsheet (Enclosure 6).

The requested information shall be submitted to the EPA electronically, per the instructions in Enclosure 1. The responses shall be submitted **no later than 30 calendar days** after NPD's receipt of this letter as determined by the date of the EPA's electronic mail transmitting this request, unless the EPA, for good cause shown, extends in writing the deadline for responding to this request. This information must be submitted electronically to the following individual:

Carrie Griffith
Environmental Engineer
Air Enforcement Branch
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303
griffith.carrie@epa.gov

Failure to provide the information required by this letter is a violation of the Act and may result in one or more of the following actions: (1) commencement of a civil action seeking compliance with this request pursuant to Section 204 of the Act, 42 U.S.C. § 7523; (2) issuance of an administrative penalty order pursuant to Section 205(c) of the Act, 42 U.S.C. § 7424(c); (3) commencement of a civil action in accordance with Section 205(b) of the Act, 42 U.S.C. § 7524(b); and/or (4) any other action authorized under the Act.

Under Section 208(c) of the Act, 42 U.S.C. § 7542(c), and pursuant to the regulations found at 40 C.F.R. Part 2, Subpart B, including 40 C.F.R. § 2.301, you are entitled to assert a claim of business confidentiality for any information you provide to the EPA which you regard as confidential business information (CBI). For such information, you may request that the EPA treat such information as confidential. Any such claim of confidentiality must conform to the requirements of 40 C.F.R. § 2.203(b). Note that “emission data,” as defined by 40 C.F.R. § 2.301(a)(2), cannot be claimed as confidential under Section 208(c) of the Act, 42 U.S.C. § 7542(c). For detailed instructions for claiming confidentiality, please see Enclosure 3. Information you supply under a claim of confidentiality will be treated in accordance with 40 C.F.R. Part 2, Subpart B, and will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to NPD. Please note that any confidentiality claim does not obviate the need to send that portion of the response to the EPA.

The response to the information requested must be accompanied by Enclosure 5, Statement of Certification, which is to be signed and dated by a responsible official of NPD. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this request that are known to you, following a complete and thorough review of all information and sources available to you.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 – 3520, because it seeks information from specific individuals or entities as part of an investigation.

If you have any questions regarding this matter, please contact Carrie Griffith at 404-562-9175 or by email at griffith.carrie@epa.gov.

Sincerely,

Carol L. Kemker
Director
Enforcement and Compliance Assurance Division

Enclosures

ENCLOSURE 1

Instructions

1. Provide a separate response to each Request set forth in Enclosure 4.
2. Indicate on each document produced, or in some other reasonable manner, the number of the Request to which it corresponds. If a document is responsive to more than one Request, this must be so indicated and only one (1) version of the document needs to be provided.
3. The company shall submit documents in Portable Document Format (PDF) or in any other electronic format as specified in Enclosure 4. Do not create separate PDF files for each page of a single document.
4. Please provide your responses to Requests 2 and 3 in an unlocked, electronic spreadsheet format. For your convenience, the EPA has provided Enclosure 6 which consists of an Excel template in which you are requested to organize your responses to Requests 2 and 3. If Excel format is not available, then the format should allow for data to be imported and used in calculations by a standard spreadsheet program such as Excel.
5. Identify each person whom you relied on or consulted with in preparing your responses to each question of this information request. Provide their name, title, job duties, and duration of employment with the company. If they are not an employee of the company, identify their employer and provide their name, title, job duties, and duration of employment with their employer.
6. If requested information or documents are not known or are not available to you at the time of your response to this information request, but later become known or available to you, you must supplement your response to the EPA within 30 calendar days of discovery of the responsive information. Moreover, should you find at any time after your submission of your response that any portion is or becomes false, incomplete, or misrepresents the facts, you must provide the EPA with a corrected response as soon as possible.
7. Please submit your response to this Request to the EPA electronically. You may submit your response using any of the following options: A.) via email to griffith.carrie@epa.gov; B.) by requesting a link from the EPA for a secure file transfer site where you may upload your response; or C.) as electronic files on a USB drive or CD sent by mail to: Carrie Griffith, Air Enforcement Branch, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia, 30303. Please note, the EPA cannot receive compressed files (.zip) via email. If you wish to submit compressed files, please select option B or C above.
8. Please do not send documents that you have claimed as confidential business information (CBI) to the EPA over the internet. If you have documents that you have claimed as CBI to submit, please send them as electronic files on a USB drive or CD by mail (option C).
9. Prior to submitting your response, please send an email to Carrie Griffith at griffith.carrie@epa.gov indicating which option or combination of options (A, B, and/or C) you have selected to submit your response to this request.

ENCLOSURE 2

Definitions

1. The term “affiliated organization” or “affiliate” means any organization or entity associated with NPD as an agent, parent organization, predecessor corporation, sister company, subsidiary organization, or any organization or entity acting in lieu of you.
2. The term “catalysts” means systems of devices which increase the rate of a chemical reaction but are not one of the original reactants or final products, *i.e.*, the catalyst is not consumed or altered in the reaction. The term “catalysts” includes emission control catalysts such as diesel oxidation catalysts (“DOCs”), NOx adsorber catalysts (“NACs”), and three-way catalysts (“TWCs”).
3. The term “DPF” refers to diesel particulate filters, which are exhaust aftertreatment devices that typically use a porous ceramic or cordierite substrate or metallic filter to physically trap particulate matter (“PM”) and remove it from the exhaust stream.
4. The term “element of design” means any control system (e.g., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine, as defined in 40 C.F.R. §§ 86.094-2 and 86.1803-01.
5. The term “electronic control module” or “ECM” means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. The ECM uses software programming including calculations and tables of information to provide the appropriate outputs. Multiple electronic control modules may be incorporated in a single unit to control various engine, vehicle, or equipment functions.
6. The term “engine management product” or “EM product” means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information stored within or used by an ECM. EM products include, but are not limited to, programmers, modules, tuners, tunes, ECM calibration tools, replacement ECMs, and flash tools.
7. The term “emission related parts” means those parts installed for the specific purpose of controlling emissions, or those components, systems, or elements of design which must function properly to assure continued vehicle emission compliance, as defined in 40 C.F.R. § 85.2102.
8. The term “engine tune,” “tune,” or “calibration” means any combination of software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information, stored in any form, capable of affecting or controlling an ECM.
9. The term “entity” means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization or association.
10. The term “exhaust product” means exhaust components designed for use downstream from the exhaust port of a motor vehicle engine, and include, but are not limited to turbochargers, EGR block plates, EGR delete kits, EGR reroute kits, EGR solution kits, aftermarket EGR coolers, exhaust

replacement pipes, downpipe-back exhaust systems, turbo-back exhaust systems, race pipes, test pipes and straight pipes.

11. The term “exhaust gas recirculation” or “EGR” means systems which redirect, usually by use of an EGR valve, a portion of engine exhaust back into the engine’s combustion chamber to cool and reduce peak combustion temperatures and pressures, thereby reducing the production of nitrogen oxides (“NOx”). The EGR system may include an EGR cooler to cool the recirculated exhaust to further reduce the combustion temperature.
12. The term “information” includes any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intraoffice communications, electronic mail (“email”), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting, or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, presentations, spreadsheets, and worksheets. The term “information” includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term “information” also includes any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back-up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. Information bearing any notation not part of the original text is considered to be separate information. A draft or non-identical copy is separate information within the meaning of this term.
13. The term “person” includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
14. The term “product” includes any software code, software, hardware, program, element of design, calibration, engine tune, EM product, device, part or component.
15. The term “you,” “your,” and “NPD” means Nacs Performance Diesel LLC, and any affiliates, predecessors, successors, assignees, agents, employees, representatives, investigators, accountants, auditors, attorneys, experts, consultants, and contractors. These terms shall also mean any others who are not listed above and are in possession, custody, or control (actual or constructive) of information relevant to this request or information that is otherwise available to Nacs Performance Diesel, or who may have obtained information for or on behalf of Nacs Performance Diesel.
16. The term “SCR” refers to the selective catalytic reduction system, which is an exhaust aftertreatment device designed to reduce NOx emissions by injecting a liquid reagent through a catalyst.

17. The term “service” means any action to change, affect, modify, bypass, render inoperative, remove, download and/or install one or more part(s) or component(s) (*e.g.*, emission control components) or other item(s), including, but not limited to, engine parts, turbochargers, block plates, straight pipes, power packages, computer tuning, calibrations, elements of design, tuners, tunes, software, code, or devices.

All terms not defined in this enclosure have their ordinary meaning, unless such terms are defined in the Clean Air Act and/or its implementing regulations, and in which case the statutory and/or regulatory definitions apply. Words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions. The terms “and” and “or” shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this information request any information which might otherwise be construed to be outside its scope.

ENCLOSURE 3

Confidential Business Information (CBI) Assertion and Substantiation Requirements

A. Assertion Requirements

You may assert a business confidentiality claim covering part or all of the information, other than emissions data and information or data that is otherwise publicly available, as described in 40 C.F.R. § 2.203(b). If no business confidentiality claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice. To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any information over which you make a claim of confidentiality should be marked by placing on or attaching to the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret” or “proprietary” or “business confidential” and a date if any when the information should no longer be treated as confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. Information covered by such a claim will be disclosed by the EPA only to the extent permitted and by means of the procedures set forth by Section 114(c) of the Act, and 40 C.F.R. Part 2, Subpart B. The EPA will construe the failure to furnish a confidentiality claim with your response to the attached letter as a waiver of that claim, and the information may be made available to the public without further notice to you.

Please segregate personnel, medical and similar files from your responses and include that information on separate sheet(s) marked as “Personal Privacy Information” given that disclosure of such information to the general public may constitute an invasion of privacy.

B. Substantiation Requirements

All confidentiality claims are subject to EPA verification and must be made in accordance with 40 C.F.R. Part 2, Subpart B.¹ You bear the burden of substantiating your confidentiality claim and must satisfactorily show, among other things, that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so and that the information is not, and has not been, reasonably obtainable by legitimate means without your consent. Conclusory allegations will be given little or no weight.

Before the EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, the EPA will send you a letter asking you to substantiate fully your CBI claim by answering several questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. You must provide the EPA with a response within the number of days set forth

¹ 40 C.F.R. § 2.208(e) conflicts with the holding in *Food Marketing Institute v. Argus Leader Media*, 139 S. Ct. 2356, 2366 (2019) (*Argus Leader*). In light of the *Argus Leader* decision, the Agency will not consider 40 C.F.R. § 2.208(e) in this determination. The Agency anticipates amending 40 C.F.R. § 2.208 so that it is consistent with the decision in *Argus Leader*.

in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

The EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied.. For each item or class of information that you identify as being confidential, the EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in the EPA's determination:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
8. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.
9. If you believe any information to be (a) trade secret (s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret (s).

10. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data or effluent data).

Please note that emission data provided under Section 208 of the Act, 42 U.S.C. § 7542, is *not* entitled to confidential treatment under Section 208(c) of the Act, 42 U.S.C. § 7542(c) or 40 C.F.R. Part 2.

“Emission data” means, with reference to any source of emission of any substance into the air - (A) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing; (B) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and (C) a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source). 40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

Information designated confidential will be disclosed by EPA only to the extent allowed by, and by means of procedures set forth in, 40 C.F.R. Part 2, Subpart B. If you fail to claim the information as confidential, it may be made available to the public without further notice to you.

ENCLOSURE 4

Request for Information

Nacs Performance Diesel shall submit the following information to the EPA, pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, regarding certain parts or products that you installed, serviced, or sold during the period between November 1, 2020, and February 1, 2021. For Requests 2 and 3, please submit your response using the template provided as Enclosure 6, Service Spreadsheet.

1. Provide a complete, unedited copy of every service invoice for each vehicle serviced by NPD between November 1, 2020, and February 1, 2021, including copies of all attachments.
2. For each service invoice provided in response to Request 1, identify the type of service performed and the make, model, and year of the vehicle serviced, if it is not already stated on the invoice.
3. For each service invoice provided in response to Request 1, identify if the service bypassed, defeated, removed, or rendered inoperative the EGR, DPF, SCR, and/or catalyst.
4. Provide copies of invoices for all exhaust products and engine management products, including all tuners and tunes, sold by NPD between November 1, 2020, and February 1, 2021. NPD may submit the requested information in an unlocked electronic spreadsheet exported from an invoice management program such as QuickBooks in lieu of PDFs, provided that the spreadsheet does not omit or truncate any sales or product information.
5. Provide a detailed, written description of NPD's business structure, including ownership, corporate form, parent, sister and/or subsidiary companies, and affiliated organizations.
6. Provide the name, address, telephone number, website address (URL), and email address for any manufacturer, wholesaler, dealer, or retailer from whom NPD has purchased engine management products, exhaust products, and/or tunes between November 1, 2020 and February 1, 2021.

ENCLOSURE 5

STATEMENT OF CERTIFICATION

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001, 1341 and 1505.

(Signature)

(Printed Name)

(Title)

(Date)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

ATLANTA FEDERAL CENTER

61 FORSYTH STREET SW

ATLANTA, GEORGIA 30303-8960

SENT VIA ELECTRONIC MAIL

Steven Abdoo
South Run Auto & Diesel
2279 US Highway 227
Carrollton, Kentucky 41008
southrunauto@gmail.com

Dear Mr. Abdoo:

Pursuant to Section 208(a) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7542(a), you are hereby required to provide the U.S. Environmental Protection Agency with information relating to South Run Auto & Diesel's (South Run) business. The EPA is seeking this information to determine whether South Run is in compliance with the requirements of Sections 203(a) and 213(d) of the Act, 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable motor vehicle regulations at 40 C.F.R. Parts 85, 86, and 1068.

The EPA issues this Request for Information under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA, Title II, Part A – Motor Vehicle Emission and Fuel Standards, Sections 202 – 219, 42 U.S.C. §§ 7521-7554, to perform tests and provide information necessary to determine whether the person is acting or has acted in compliance with the CAA and the regulations promulgated thereunder. The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, Region 4.

Please review the following enclosures and complete as appropriate: Instructions (Enclosure 1), Definitions (Enclosure 2), Claiming Confidentiality (Enclosure 3), Request for Information (Enclosure 4), Statement of Certification (Enclosure 5), and Service Spreadsheet (Enclosure 6).

The requested information shall be submitted to the EPA electronically, per the instructions in Enclosure 1. The responses shall be submitted **no later than 30 calendar days** after South Run's receipt of this letter as determined by the date of the EPA's electronic mail transmitting this request, unless the EPA, for good cause shown, extends in writing the deadline for responding to this request. This information must be submitted electronically to the following individual:

Carrie Griffith
Environmental Engineer
Air Enforcement Branch
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303
griffith.carrie@epa.gov

Failure to provide the information required by this letter is a violation of the Act and may result in one or more of the following actions: (1) commencement of a civil action seeking compliance with this request pursuant to Section 204 of the Act, 42 U.S.C. § 7523; (2) issuance of an administrative penalty order pursuant to Section 205(c) of the Act, 42 U.S.C. § 7424(c); (3) commencement of a civil action in accordance with Section 205(b) of the Act, 42 U.S.C. § 7524(b); and/or (4) any other action authorized under the Act.

Under Section 208(c) of the Act, 42 U.S.C. § 7542(c), and pursuant to the regulations found at 40 C.F.R. Part 2, Subpart B, including 40 C.F.R. § 2.301, you are entitled to assert a claim of business confidentiality for any information you provide to the EPA which you regard as confidential business information (CBI). For such information, you may request that the EPA treat such information as confidential. Any such claim of confidentiality must conform to the requirements of 40 C.F.R. § 2.203(b). Note that “emission data,” as defined by 40 C.F.R. § 2.301(a)(2), cannot be claimed as confidential under Section 208(c) of the Act, 42 U.S.C. § 7542(c). For detailed instructions for claiming confidentiality, please see Enclosure 3. Information you supply under a claim of confidentiality will be treated in accordance with 40 C.F.R. Part 2, Subpart B, and will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to South Run. Please note that any confidentiality claim does not obviate the need to send that portion of the response to the EPA.

The response to the information requested must be accompanied by Enclosure 5, Statement of Certification, which is to be signed and dated by a responsible official of South Run. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this request that are known to you, following a complete and thorough review of all information and sources available to you.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 – 3520, because it seeks information from specific individuals or entities as part of an investigation.

If you have any questions regarding this matter, please contact Carrie Griffith at 404-562-9175 or by email at griffith.carrie@epa.gov.

Sincerely,

Carol L. Kemker
Director
Enforcement and Compliance Assurance Division

Enclosures

ENCLOSURE 1

Instructions

1. Provide a separate response to each Request set forth in Enclosure 4.
2. Indicate on each document produced, or in some other reasonable manner, the number of the Request to which it corresponds. If a document is responsive to more than one Request, this must be so indicated and only one (1) version of the document needs to be provided.
3. The company shall submit documents in Portable Document Format (PDF) or in any other electronic format as specified in Enclosure 4. Do not create separate PDF files for each page of a single document.
4. Please provide your responses to Requests 2 and 3 in an unlocked, electronic spreadsheet format. For your convenience, the EPA has provided Enclosure 6 which consists of an Excel template in which you are requested to organize your responses to Requests 2 and 3. If Excel format is not available, then the format should allow for data to be imported and used in calculations by a standard spreadsheet program such as Excel.
5. Identify each person whom you relied on or consulted with in preparing your responses to each question of this information request. Provide their name, title, job duties, and duration of employment with the company. If they are not an employee of the company, identify their employer and provide their name, title, job duties, and duration of employment with their employer.
6. If requested information or documents are not known or are not available to you at the time of your response to this information request, but later become known or available to you, you must supplement your response to the EPA within 30 calendar days of discovery of the responsive information. Moreover, should you find at any time after your submission of your response that any portion is or becomes false, incomplete, or misrepresents the facts, you must provide the EPA with a corrected response as soon as possible.
7. Please submit your response to this Request to the EPA electronically. You may submit your response using any of the following options: A.) via email to griffith.carrie@epa.gov; B.) by requesting a link from the EPA for a secure file transfer site where you may upload your response; or C.) as electronic files on a USB drive or CD sent by mail to: Carrie Griffith, Air Enforcement Branch, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia, 30303. Please note, the EPA cannot receive compressed files (.zip) via email. If you wish to submit compressed files, please select option B or C above.
8. Please do not send documents that you have claimed as confidential business information (CBI) to the EPA over the internet. If you have documents that you have claimed as CBI to submit, please send them as electronic files on a USB drive or CD by mail (option C).
9. Prior to submitting your response, please send an email to Carrie Griffith at griffith.carrie@epa.gov indicating which option or combination of options (A, B, and/or C) you have selected to submit your response to this request.

ENCLOSURE 2

Definitions

1. The term “affiliated organization” or “affiliate” means any organization or entity associated with South Run as an agent, parent organization, predecessor corporation, sister company, subsidiary organization, or any organization or entity acting in lieu of you.
2. The term “catalysts” means systems of devices which increase the rate of a chemical reaction but are not one of the original reactants or final products, *i.e.*, the catalyst is not consumed or altered in the reaction. The term “catalysts” includes emission control catalysts such as diesel oxidation catalysts (“DOCs”), NOx adsorber catalysts (“NACs”), and three-way catalysts (“TWCs”).
3. The term “DPF” refers to diesel particulate filters, which are exhaust aftertreatment devices that typically use a porous ceramic or cordierite substrate or metallic filter to physically trap particulate matter (“PM”) and remove it from the exhaust stream.
4. The term “element of design” means any control system (e.g., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine, as defined in 40 C.F.R. §§ 86.094-2 and 86.1803-01.
5. The term “electronic control module” or “ECM” means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. The ECM uses software programming including calculations and tables of information to provide the appropriate outputs. Multiple electronic control modules may be incorporated in a single unit to control various engine, vehicle, or equipment functions.
6. The term “engine management product” or “EM product” means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information stored within or used by an ECM. EM products include, but are not limited to, programmers, modules, tuners, tunes, ECM calibration tools, replacement ECMs, and flash tools.
7. The term “emission related parts” means those parts installed for the specific purpose of controlling emissions, or those components, systems, or elements of design which must function properly to assure continued vehicle emission compliance, as defined in 40 C.F.R. § 85.2102.
8. The term “engine tune,” “tune,” or “calibration” means any combination of software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information, stored in any form, capable of affecting or controlling an ECM.
9. The term “entity” means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization or association.
10. The term “exhaust product” means exhaust components designed for use downstream from the exhaust port of a motor vehicle engine, and include, but are not limited to turbochargers, EGR block plates, EGR delete kits, EGR reroute kits, EGR solution kits, aftermarket EGR coolers, exhaust

replacement pipes, downpipe-back exhaust systems, turbo-back exhaust systems, race pipes, test pipes and straight pipes.

11. The term “exhaust gas recirculation” or “EGR” means systems which redirect, usually by use of an EGR valve, a portion of engine exhaust back into the engine’s combustion chamber to cool and reduce peak combustion temperatures and pressures, thereby reducing the production of nitrogen oxides (“NOx”). The EGR system may include an EGR cooler to cool the recirculated exhaust to further reduce the combustion temperature.
12. The term “information” includes any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intraoffice communications, electronic mail (“email”), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting, or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, presentations, spreadsheets, and worksheets. The term “information” includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term “information” also includes any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back-up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. Information bearing any notation not part of the original text is considered to be separate information. A draft or non-identical copy is separate information within the meaning of this term.
13. The term “person” includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
14. The term “product” includes any software code, software, hardware, program, element of design, calibration, engine tune, EM product, device, part or component.
15. The term “you,” “your,” and “South Run” means A&A Ventures, LLC dba South Run Auto & Diesel, and any affiliates, predecessors, successors, assignees, agents, employees, representatives, investigators, accountants, auditors, attorneys, experts, consultants, and contractors. These terms shall also mean any others who are not listed above and are in possession, custody, or control (actual or constructive) of information relevant to this request or information that is otherwise available to South Run, or who may have obtained information for or on behalf of South Run.
16. The term “SCR” refers to the selective catalytic reduction system, which is an exhaust aftertreatment device designed to reduce NOx emissions by injecting a liquid reagent through a catalyst.

17. The term “service” means any action to change, affect, modify, bypass, render inoperative, remove, download and/or install one or more part(s) or component(s) (*e.g.*, emission control components) or other item(s), including, but not limited to, engine parts, turbochargers, block plates, straight pipes, power packages, computer tuning, calibrations, elements of design, tuners, tunes, software, code, or devices.

All terms not defined in this enclosure have their ordinary meaning, unless such terms are defined in the Clean Air Act and/or its implementing regulations, and in which case the statutory and/or regulatory definitions apply. Words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions. The terms “and” and “or” shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this information request any information which might otherwise be construed to be outside its scope.

ENCLOSURE 3

Confidential Business Information (CBI) Assertion and Substantiation Requirements

A. Assertion Requirements

You may assert a business confidentiality claim covering part or all of the information, other than emissions data and information or data that is otherwise publicly available, as described in 40 C.F.R. § 2.203(b). If no business confidentiality claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice. To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any information over which you make a claim of confidentiality should be marked by placing on or attaching to the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret” or “proprietary” or “business confidential” and a date if any when the information should no longer be treated as confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. Information covered by such a claim will be disclosed by the EPA only to the extent permitted and by means of the procedures set forth by Section 114(c) of the Act, and 40 C.F.R. Part 2, Subpart B. The EPA will construe the failure to furnish a confidentiality claim with your response to the attached letter as a waiver of that claim, and the information may be made available to the public without further notice to you.

Please segregate personnel, medical and similar files from your responses and include that information on separate sheet(s) marked as “Personal Privacy Information” given that disclosure of such information to the general public may constitute an invasion of privacy.

B. Substantiation Requirements

All confidentiality claims are subject to EPA verification and must be made in accordance with 40 C.F.R. Part 2, Subpart B.¹ You bear the burden of substantiating your confidentiality claim and must satisfactorily show, among other things, that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so and that the information is not, and has not been, reasonably obtainable by legitimate means without your consent. Conclusory allegations will be given little or no weight.

Before the EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, the EPA will send you a letter asking you to substantiate fully your CBI claim by answering several questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. You must provide the EPA with a response within the number of days set forth

¹ 40 C.F.R. § 2.208(e) conflicts with the holding in *Food Marketing Institute v. Argus Leader Media*, 139 S. Ct. 2356, 2366 (2019) (*Argus Leader*). In light of the *Argus Leader* decision, the Agency will not consider 40 C.F.R. § 2.208(e) in this determination. The Agency anticipates amending 40 C.F.R. § 2.208 so that it is consistent with the decision in *Argus Leader*.

in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

The EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied.. For each item or class of information that you identify as being confidential, the EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in the EPA's determination:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
8. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.
9. If you believe any information to be (a) trade secret (s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret (s).

10. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data or effluent data).

Please note that emission data provided under Section 208 of the Act, 42 U.S.C. § 7542, is *not* entitled to confidential treatment under Section 208(c) of the Act, 42 U.S.C. § 7542(c) or 40 C.F.R. Part 2.

“Emission data” means, with reference to any source of emission of any substance into the air - (A) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing; (B) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and (C) a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source). 40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

Information designated confidential will be disclosed by EPA only to the extent allowed by, and by means of procedures set forth in, 40 C.F.R. Part 2, Subpart B. If you fail to claim the information as confidential, it may be made available to the public without further notice to you.

ENCLOSURE 4

Request for Information

South Run Auto & Diesel shall submit the following information to the EPA, pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, regarding certain parts or products that you installed, serviced, or sold during the period between November 1, 2020, and February 1, 2021. For Requests 2 and 3, please submit your response using the template provided as Enclosure 6, Service Spreadsheet.

1. Provide a complete, unedited copy of every service invoice for each vehicle serviced by South Run between November 1, 2020, and February 1, 2021, including copies of all attachments.
2. For each service invoice provided in response to Request 1, identify the type of service performed and the make, model, and year of the vehicle serviced, if it is not already stated on the invoice.
3. For each service invoice provided in response to Request 1, identify if the service bypassed, defeated, removed, or rendered inoperative the EGR, DPF, SCR, and/or catalyst.
4. Provide copies of invoices for all exhaust products and engine management products, including all tuners and tunes, sold by South Run between November 1, 2020, and February 1, 2021. South Run may submit the requested information in an unlocked electronic spreadsheet exported from an invoice management program such as QuickBooks in lieu of PDFs, provided that the spreadsheet does not omit or truncate any sales or product information.
5. Provide a detailed, written description of South Run's business structure, including ownership, corporate form, parent, sister and/or subsidiary companies, and affiliated organizations.
6. Provide the name, address, telephone number, website address (URL), and email address for any manufacturer, wholesaler, dealer, or retailer from whom South Run has purchased engine management products, exhaust products, and/or tunes between November 1, 2020, and February 1, 2021.

ENCLOSURE 5

STATEMENT OF CERTIFICATION

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001, 1341 and 1505.

(Signature)

(Printed Name)

(Title)

(Date)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

ATLANTA FEDERAL CENTER

61 FORSYTH STREET SW

ATLANTA, GEORGIA 30303-8960

SENT VIA ELECTRONIC MAIL

Robert Elliott, Owner
Super Power Diesel
4161 118th Ave N #B
Clearwater, Florida 33762
superpowerdiesel@verizon.net

Dear Mr. Elliott:

Pursuant to Section 208(a) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7542(a), you are hereby required to provide the U.S. Environmental Protection Agency with information relating to Super-Power LLC (SPD) business. The EPA is seeking this information to determine whether SPD is in compliance with the requirements of Sections 203(a) and 213(d) of the Act, 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable motor vehicle regulations at 40 C.F.R. Parts 85, 86, and 1068.

The EPA issues this Request for Information under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA, Title II, Part A – Motor Vehicle Emission and Fuel Standards, Sections 202 – 219, 42 U.S.C. §§ 7521-7554, to perform tests and provide information necessary to determine whether the person is acting or has acted in compliance with the CAA and the regulations promulgated thereunder. The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, Region 4.

Please review the following enclosures and complete as appropriate: Instructions (Enclosure 1), Definitions (Enclosure 2), Claiming Confidentiality (Enclosure 3), Request for Information (Enclosure 4), Statement of Certification (Enclosure 5), and Service Spreadsheet (Enclosure 6).

The requested information shall be submitted to the EPA electronically, per the instructions in Enclosure 1. The responses shall be submitted **no later than 30 calendar days** after SPD's receipt of this letter as determined by the date of the EPA's electronic mail transmitting this request, unless the EPA, for good cause shown, extends in writing the deadline for responding to this request. This information must be submitted electronically to the following individual:

Carrie Griffith
Environmental Engineer
Air Enforcement Branch
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303
griffith.carrie@epa.gov

Failure to provide the information required by this letter is a violation of the Act and may result in one or more of the following actions: (1) commencement of a civil action seeking compliance with this request pursuant to Section 204 of the Act, 42 U.S.C. § 7523; (2) issuance of an administrative penalty order pursuant to Section 205(c) of the Act, 42 U.S.C. § 7424(c); (3) commencement of a civil action in accordance with Section 205(b) of the Act, 42 U.S.C. § 7524(b); and/or (4) any other action authorized under the Act.

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The response to the information requested must be accompanied by Enclosure 5, Statement of Certification, which is to be signed and dated by a responsible official of SPD. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this request that are known to you, following a complete and thorough review of all information and sources available to you.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 – 3520, because it seeks information from specific individuals or entities as part of an investigation.

If you have any questions regarding this matter, please contact Carrie Griffith at 404-562-9175 or by email at griffith.carrie@epa.gov.

Sincerely,

Carol L. Kemker
Director
Enforcement and Compliance Assurance Division

Enclosures

ENCLOSURE 1

Instructions

1. Provide a separate response to each Request set forth in Enclosure 4.
2. Indicate on each document produced, or in some other reasonable manner, the number of the Request to which it corresponds. If a document is responsive to more than one Request, this must be so indicated and only one version of the document needs to be provided.
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5. Identify each person whom you relied on or consulted with in preparing your responses to each question of this information request. Provide their name, title, job duties, and duration of employment with the company. If they are not an employee of the company, identify their employer and provide their name, title, job duties, and duration of employment with their employer.
6. If requested information or documents are not known or are not available to you at the time of your response to this information request, but later become known or available to you, you must supplement your response to the EPA within 30 calendar days of discovery of the responsive information. Moreover, should you find at any time after your submission of your response that any portion is or becomes false, incomplete, or misrepresents the facts, you must provide the EPA with a corrected response as soon as possible.
7. Please submit your response to this Request to the EPA electronically. You may submit your response using any of the following options: A.) via email to griffith.carrie@epa.gov; B.) by requesting a link from the EPA for a secure file transfer site where you may upload your response; or C.) as electronic files on a USB drive or CD sent by mail to: Carrie Griffith, Air Enforcement Branch, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia, 30303. Please note, the EPA cannot receive compressed files (.zip) via email. If you wish to submit compressed files, please select option B or C above.
8. Please do not send documents that you have claimed as confidential business information (CBI) to the EPA over the internet. If you have documents that you have claimed as CBI to submit, please send them as electronic files on a USB drive or CD by mail (option C).
9. Prior to submitting your response, please send an email to Carrie Griffith at griffith.carrie@epa.gov indicating which option or combination of options (A, B, and/or C) you have selected to submit your response to this request.

ENCLOSURE 2

Definitions

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4. The term “element of design” means any control system (e.g., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine, as defined in 40 C.F.R. §§ 86.094-2 and 86.1803-01.
5. The term “electronic control module” or “ECM” means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. The ECM uses software programming including calculations and tables of information to provide the appropriate outputs. Multiple electronic control modules may be incorporated in a single unit to control various engine, vehicle, or equipment functions.
6. The term “engine management product” or “EM product” means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information stored within or used by an ECM. EM products include, but are not limited to, programmers, modules, tuners, tunes, ECM calibration tools, replacement ECMs, and flash tools.
7. The term “emission related parts” means those parts installed for the specific purpose of controlling emissions, or those components, systems, or elements of design which must function properly to assure continued vehicle emission compliance, as defined in 40 C.F.R. § 85.2102.
8. The term “engine tune,” “tune,” or “calibration” means any combination of software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information, stored in any form, capable of affecting or controlling an ECM.
9. The term “entity” means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization or association.
10. The term “exhaust product” means exhaust components designed for use downstream from the exhaust port of a motor vehicle engine, and include, but are not limited to turbochargers, EGR block plates, EGR delete kits, EGR reroute kits, EGR solution kits, aftermarket EGR coolers, exhaust

replacement pipes, downpipe-back exhaust systems, turbo-back exhaust systems, race pipes, test pipes and straight pipes.

11. The term “exhaust gas recirculation” or “EGR” means systems which redirect, usually by use of an EGR valve, a portion of engine exhaust back into the engine’s combustion chamber to cool and reduce peak combustion temperatures and pressures, thereby reducing the production of nitrogen oxides (“NOx”). The EGR system may include an EGR cooler to cool the recirculated exhaust to further reduce the combustion temperature.
12. The term “information” includes any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intraoffice communications, electronic mail (“email”), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting, or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, presentations, spreadsheets, and worksheets. The term “information” includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term “information” also includes any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back-up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. Information bearing any notation not part of the original text is considered to be separate information. A draft or non-identical copy is separate information within the meaning of this term.
13. The term “person” includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
14. The term “product” includes any software code, software, hardware, program, element of design, calibration, engine tune, EM product, device, part or component.
15. The term “you,” “your,” and “SPD” means Super-Power LLC dba Super Power Diesel, and any affiliates, predecessors, successors, assignees, agents, employees, representatives, investigators, accountants, auditors, attorneys, experts, consultants, and contractors. These terms shall also mean any others who are not listed above and are in possession, custody, or control (actual or constructive) of information relevant to this request or information that is otherwise available to Super Power Diesel, or who may have obtained information for or on behalf of Super Power Diesel.
16. The term “SCR” refers to the selective catalytic reduction system, which is an exhaust aftertreatment device designed to reduce NOx emissions by injecting a liquid reagent through a catalyst.

17. The term “service” means any action to change, affect, modify, bypass, render inoperative, remove, download and/or install one or more part(s) or component(s) (*e.g.*, emission control components) or other item(s), including, but not limited to, engine parts, turbochargers, block plates, straight pipes, power packages, computer tuning, calibrations, elements of design, tuners, tunes, software, code, or devices.

All terms not defined in this enclosure have their ordinary meaning, unless such terms are defined in the Clean Air Act and/or its implementing regulations, and in which case the statutory and/or regulatory definitions apply. Words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions. The terms “and” and “or” shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this information request any information which might otherwise be construed to be outside its scope.

ENCLOSURE 3

Confidential Business Information (CBI) Assertion and Substantiation Requirements

A. Assertion Requirements

You may assert a business confidentiality claim covering part or all of the information, other than emissions data and information or data that is otherwise publicly available, as described in 40 C.F.R. § 2.203(b). If no business confidentiality claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice. To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any information over which you make a claim of confidentiality should be marked by placing on or attaching to the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret” or “proprietary” or “business confidential” and a date if any when the information should no longer be treated as confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. Information covered by such a claim will be disclosed by the EPA only to the extent permitted and by means of the procedures set forth by Section 114(c) of the Act, and 40 C.F.R. Part 2, Subpart B. The EPA will construe the failure to furnish a confidentiality claim with your response to the attached letter as a waiver of that claim, and the information may be made available to the public without further notice to you.

Please segregate personnel, medical and similar files from your responses and include that information on separate sheet(s) marked as “Personal Privacy Information” given that disclosure of such information to the general public may constitute an invasion of privacy.

B. Substantiation Requirements

All confidentiality claims are subject to EPA verification and must be made in accordance with 40 C.F.R. Part 2, Subpart B.¹ You bear the burden of substantiating your confidentiality claim and must satisfactorily show, among other things, that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so and that the information is not, and has not been, reasonably obtainable by legitimate means without your consent. Conclusory allegations will be given little or no weight.

Before the EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, the EPA will send you a letter asking you to substantiate fully your CBI claim by answering several questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. You must provide the EPA with a response within the number of days set forth

¹ 40 C.F.R. § 2.208(e) conflicts with the holding in *Food Marketing Institute v. Argus Leader Media*, 139 S. Ct. 2356, 2366 (2019) (*Argus Leader*). In light of the *Argus Leader* decision, the Agency will not consider 40 C.F.R. § 2.208(e) in this determination. The Agency anticipates amending 40 C.F.R. § 2.208 so that it is consistent with the decision in *Argus Leader*.

in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

The EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied.. For each item or class of information that you identify as being confidential, the EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in the EPA's determination:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
8. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.
9. If you believe any information to be (a) trade secret (s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret (s).

10. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data or effluent data).

Please note that emission data provided under Section 208 of the Act, 42 U.S.C. § 7542, is *not* entitled to confidential treatment under Section 208(c) of the Act, 42 U.S.C. § 7542(c) or 40 C.F.R. Part 2.

“Emission data” means, with reference to any source of emission of any substance into the air - (A) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing; (B) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and (C) a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source). 40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

Information designated confidential will be disclosed by EPA only to the extent allowed by, and by means of procedures set forth in, 40 C.F.R. Part 2, Subpart B. If you fail to claim the information as confidential, it may be made available to the public without further notice to you.

ENCLOSURE 4

Request for Information

Super Power Diesel shall submit the following information to the EPA, pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, regarding certain parts or products that you installed, serviced, or sold during the period between November 1, 2020, and February 1, 2021. For Requests 2 and 3, please submit your response using the template provided as Enclosure 6, Service Spreadsheet.

1. Provide a complete, unedited copy of every service invoice for each vehicle serviced by SPD between November 1, 2020, and February 1, 2021, including copies of all attachments.
2. For each service invoice provided in response to Request 1, identify the type of service performed and make, model, and year of the vehicle serviced, if it is not already stated on the invoice.
3. For each service invoice provided in response to Request 1, identify if the service provided bypassed, defeated, removed, or rendered inoperative the EGR, DPF, SCR, and/or catalyst.
4. Provide copies of invoices for all exhaust products and engine management products, including all tuners and tunes, sold by SPD between November 1, 2020, and February 1, 2021. SPD may submit the requested information in an unlocked electronic spreadsheet exported from an invoice management program such as QuickBooks in lieu of PDFs, provided that the spreadsheet does not omit or truncate any sales or product information.
5. Provide a detailed, written description of SPD's business structure, including ownership, corporate form, parent, sister and/or subsidiary companies, and affiliated organizations.
6. Provide the name, address, telephone number, website address (URL), and email address for any manufacturer, wholesaler, dealer, or retailer from whom SPD has purchased engine management products, exhaust products, and/or tunes between November 1, 2020 and February 1, 2021.

ENCLOSURE 5

STATEMENT OF CERTIFICATION

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001, 1341 and 1505.

(Signature)

(Printed Name)

(Title)

(Date)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

ATLANTA FEDERAL CENTER

61 FORSYTH STREET SW

ATLANTA, GEORGIA 30303-8960

SENT VIA ELECTRONIC MAIL

Joseph Virgilio
Virgilio's Diesel Performance LLC
1020 Brooks Industrial Road
Shelbyville, Kentucky 40065
jvirgilio43@hotmail.com

Dear Mr. Virgilio:

Pursuant to Section 208(a) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7542(a), you are hereby required to provide the U.S. Environmental Protection Agency with information relating to Virgilio's Diesel Performance LLC (VDP) business. The EPA is seeking this information to determine whether VDP is in compliance with the requirements of Sections 203(a) and 213(d) of the Act, 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable motor vehicle regulations at 40 C.F.R. Parts 85, 86, and 1068.

The EPA issues this Request for Information under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA, Title II, Part A – Motor Vehicle Emission and Fuel Standards, Sections 202 – 219, 42 U.S.C. §§ 7521-7554, to perform tests and provide information necessary to determine whether the person is acting or has acted in compliance with the CAA and the regulations promulgated thereunder. The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, Region 4.

Please review the following enclosures and complete as appropriate: Instructions (Enclosure 1), Definitions (Enclosure 2), Claiming Confidentiality (Enclosure 3), Request for Information (Enclosure 4), Statement of Certification (Enclosure 5), and Service and Sales Spreadsheet (Enclosure 6).

The requested information shall be submitted to the EPA electronically, per the instructions in Enclosure 1. The responses shall be submitted **no later than 30 calendar days** after VDP's receipt of this letter as determined by the date of the EPA's electronic mail submitting this request, unless the EPA, for good cause shown, extends in writing the deadline for responding to this request. This information must be submitted electronically to the following individual:

Carrie Griffith
Environmental Engineer
Air Enforcement Branch
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street SW
Atlanta, Georgia 30303
griffith.carrie@epa.gov

Failure to provide the information required by this letter is a violation of the Act and may result in one or more of the following actions: (1) commencement of a civil action seeking compliance with this request pursuant to Section 204 of the Act, 42 U.S.C. § 7523; (2) issuance of an administrative penalty order pursuant to Section 205(c) of the Act, 42 U.S.C. § 7424(c); (3) commencement of a civil action in accordance with Section 205(b) of the Act, 42 U.S.C. § 7524(b); and/or (4) any other action authorized under the Act.

Under Section 208(c) of the Act, 42 U.S.C. § 7542(c), and pursuant to the regulations found at 40 C.F.R. Part 2, Subpart B, including 40 C.F.R. § 2.301, you are entitled to assert a claim of business confidentiality for any information you provide to the EPA which you regard as confidential business information (CBI). For such information, you may request that the EPA treat such information as confidential. Any such claim of confidentiality must conform to the requirements of 40 C.F.R. § 2.203(b). Note that “emission data,” as defined by 40 C.F.R. § 2.301(a)(2), cannot be claimed as confidential under Section 208(c) of the Act, 42 U.S.C. § 7542(c). For detailed instructions for claiming confidentiality, please see Enclosure 3. Information you supply under a claim of confidentiality will be treated in accordance with 40 C.F.R. Part 2, Subpart B, and will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to VDP. Please note that any confidentiality claim does not obviate the need to send that portion of the response to the EPA.

The response to the information requested must be accompanied by Enclosure 5, Statement of Certification, which is to be signed and dated by a responsible official of VDP. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this request that are known to you, following a complete and thorough review of all information and sources available to you.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 – 3520, because it seeks information from specific individuals or entities as part of an investigation.

If you have any questions regarding this matter, please contact Carrie Griffith at 404-562-9175 or by email at griffith.carrie@epa.gov.

Sincerely,

Carol L. Kemker
Director
Enforcement and Compliance Assurance Division

Enclosures

ENCLOSURE 1

Instructions

1. Provide a separate response to each Request set forth in Enclosure 4.
2. Indicate on each document produced, or in some other reasonable manner, the number of the Request to which it corresponds. If a document is responsive to more than one Request, this must be so indicated and only one (1) version of the document needs to be provided.
3. The company shall submit documents in Portable Document Format (PDF) or in any other electronic format as specified in Enclosure 4. Do not create separate PDF files for each page of a single document.
4. Please provide your responses to Requests 2 through 4 in an unlocked, electronic spreadsheet format. For your convenience, the EPA has provided Enclosure 6 which consists of an Excel template in which you are requested to organize your responses to Requests 2 through 4. If Excel format is not available, then the format should allow for data to be imported and used in calculations by a standard spreadsheet program such as Excel.
5. Identify each person whom you relied on or consulted with in preparing your responses to each question of this information request. Provide their name, title, job duties, and duration of employment with the company. If they are not an employee of the company, identify their employer and provide their name, title, job duties, and duration of employment with their employer.
6. If requested information or documents are not known or are not available to you at the time of your response to this information request, but later become known or available to you, you must supplement your response to the EPA within 30 calendar days of discovery of the responsive information. Moreover, should you find at any time after your submission of your response that any portion is or becomes false, incomplete, or misrepresents the facts, you must provide the EPA with a corrected response as soon as possible.
7. Please submit your response to this Request to the EPA electronically. You may submit your response using any of the following options: A.) via email to griffith.carrie@epa.gov; B.) by requesting a link from the EPA for a secure file transfer site where you may upload your response; or C.) as electronic files on a USB drive or CD sent by mail to: Carrie Griffith, Air Enforcement Branch, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia, 30303. Please note, the EPA cannot receive compressed files (.zip) via email. If you wish to submit compressed files, please select option B or C above.
8. Please do not send documents that you have claimed as confidential business information (CBI) to the EPA over the internet. If you have documents that you have claimed as CBI to submit, please send them as electronic files on a USB drive or CD by mail (option C).
9. Prior to submitting your response, please send an email to Carrie Griffith at griffith.carrie@epa.gov indicating which option or combination of options (A, B, and/or C) you have selected to submit your response to this request.

ENCLOSURE 2

Definitions

1. The term “affiliated organization” or “affiliate” means any organization or entity associated with VDP as an agent, parent organization, predecessor corporation, sister company, subsidiary organization, or any organization or entity acting in lieu of you.
2. The term “catalysts” means systems of devices which increase the rate of a chemical reaction but are not one of the original reactants or final products, *i.e.*, the catalyst is not consumed or altered in the reaction. The term “catalysts” includes emission control catalysts such as diesel oxidation catalysts (“DOCs”), NOx adsorber catalysts (“NACs”), and three-way catalysts (“TWCs”).
3. The term “DPF” refers to diesel particulate filters, which are exhaust aftertreatment devices that typically use a porous ceramic or cordierite substrate or metallic filter to physically trap particulate matter (“PM”) and remove it from the exhaust stream.
4. The term “element of design” means any control system (e.g., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine, as defined in 40 C.F.R. §§ 86.094-2 and 86.1803-01.
5. The term “electronic control module” or “ECM” means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. The ECM uses software programming including calculations and tables of information to provide the appropriate outputs. Multiple electronic control modules may be incorporated in a single unit to control various engine, vehicle, or equipment functions.
6. The term “engine management product” or “EM product” means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information stored within or used by an ECM. EM products include, but are not limited to, programmers, modules, tuners, tunes, ECM calibration tools, replacement ECMs, and flash tools.
7. The term “emission related parts” means those parts installed for the specific purpose of controlling emissions, or those components, systems, or elements of design which must function properly to assure continued vehicle emission compliance, as defined in 40 C.F.R. § 85.2102.
8. The term “engine tune,” “tune,” or “calibration” means any combination of software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information, stored in any form, capable of affecting or controlling an ECM.
9. The term “entity” means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization or association.
10. The term “exhaust gas recirculation” or “EGR” means systems which redirect, usually by use of an EGR valve, a portion of engine exhaust back into the engine’s combustion chamber to cool and reduce peak combustion temperatures and pressures, thereby reducing the production of nitrogen

oxides (“NOx”). The EGR system may include an EGR cooler to cool the recirculated exhaust to further reduce the combustion temperature.

11. The term “exhaust product” means exhaust components designed for use downstream from the exhaust port of a motor vehicle engine, and include, but are not limited to turbochargers, EGR block plates, EGR delete kits, EGR reroute kits, EGR solution kits, aftermarket EGR coolers, exhaust replacement pipes, downpipe-back exhaust systems, turbo-back exhaust systems, race pipes, test pipes and straight pipes.
12. The term “information” includes any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intraoffice communications, electronic mail (“email”), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting, or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, presentations, spreadsheets, and worksheets. The term “information” includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term “information” also includes any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back-up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. Information bearing any notation not part of the original text is considered to be separate information. A draft or non-identical copy is separate information within the meaning of this term.
13. The term “person” includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
14. The term “product” includes any software code, software, hardware, program, element of design, calibration, engine tune, EM product, device, part or component.
15. The term “you,” “your,” and “VDP” means Virgilio’s Diesel Performance LLC dba Virgilio’s Performance and Fabrication, and any affiliates, predecessors, successors, assignees, agents, employees, representatives, investigators, accountants, auditors, attorneys, experts, consultants, and contractors. These terms shall also mean any others who are not listed above and are in possession, custody, or control (actual or constructive) of information relevant to this request or information that is otherwise available to Virgilio’s Diesel Performance, or who may have obtained information for or on behalf of Virgilio’s Diesel Performance.
16. The term “SCR” refers to the selective catalytic reduction system, which is an exhaust aftertreatment device designed to reduce NOx emissions by injecting a liquid reagent through a catalyst.

17. The term “service” means any action to change, affect, modify, bypass, render inoperative, remove, download and/or install one or more part(s) or component(s) (*e.g.*, emission control components) or other item(s), including, but not limited to, engine parts, turbochargers, block plates, straight pipes, power packages, computer tuning, calibrations, elements of design, tuners, tunes, software, code, or devices.

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All confidentiality claims are subject to EPA verification and must be made in accordance with 40 C.F.R. Part 2, Subpart B.¹ You bear the burden of substantiating your confidentiality claim and must satisfactorily show, among other things, that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so and that the information is not, and has not been, reasonably obtainable by legitimate means without your consent. Conclusory allegations will be given little or no weight.

Before the EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, the EPA will send you a letter asking you to substantiate fully your CBI claim by answering several questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. You must provide the EPA with a response within the number of days set forth

¹ 40 C.F.R. § 2.208(e) conflicts with the holding in *Food Marketing Institute v. Argus Leader Media*, 139 S. Ct. 2356, 2366 (2019) (*Argus Leader*). In light of the *Argus Leader* decision, the Agency will not consider 40 C.F.R. § 2.208(e) in this determination. The Agency anticipates amending 40 C.F.R. § 2.208 so that it is consistent with the decision in *Argus Leader*.

in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

The EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied.. For each item or class of information that you identify as being confidential, the EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in the EPA's determination:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
8. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.
9. If you believe any information to be (a) trade secret (s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret (s).

10. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data or effluent data).

Please note that emission data provided under Section 208 of the Act, 42 U.S.C. § 7542, is *not* entitled to confidential treatment under Section 208(c) of the Act, 42 U.S.C. § 7542(c) or 40 C.F.R. Part 2.

“Emission data” means, with reference to any source of emission of any substance into the air - (A) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing; (B) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and (C) a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source). 40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

Information designated confidential will be disclosed by EPA only to the extent allowed by, and by means of procedures set forth in, 40 C.F.R. Part 2, Subpart B. If you fail to claim the information as confidential, it may be made available to the public without further notice to you.

ENCLOSURE 4

Request for Information

Virgilio's Diesel Performance shall submit the following information to the EPA, pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, regarding certain parts or products that you installed, serviced or sold during the period from November 1, 2020 to February 1, 2021. For Requests 2 through 4, please submit your response using the template provided as Enclosure 6, Service and Sales Spreadsheet.

1. Provide a complete, unedited copy of every service invoice for each vehicle serviced by VDP from November 1, 2020 to February 1, 2021, including copies of all attachments.
2. For each service invoice provided in response to Request 1, identify the type of service performed and the make, model, and year of the vehicle serviced in Enclosure 6, worksheet 1.
3. For each service invoice provided in response to Request 1, identify if the service bypassed, defeated, removed, or rendered inoperative the EGR, DPF, SCR, and/or catalyst in Enclosure 6, worksheet 1.
4. For each exhaust product and engine management product, including all tuners and tunes, sold by VDP during the period from November 1, 2020 to February 1, 2021, provide following information in Enclosure 6, worksheet 2:
 - a. Part number, item code, or other unique identifier used by VDP;
 - b. Product name;
 - c. Product manufacturer;
 - d. Product's application by vehicle type, make, model, and year;
 - e. Quantity sold by VDP from November 1, 2020 to February 1, 2021;
 - f. Quantity installed by VDP from November 1, 2020 to February 1, 2021;
 - g. Is the product designed or intended to permanently or temporarily bypass, defeat, or render inoperative a motor vehicle's emission related parts, including but not limited to the EGR, DPF, SCR, catalyst, or OBD? If yes, which one?
5. Provide a detailed, written description of VDP's business structure, including ownership, corporate form, parent, sister and/or subsidiary companies, and affiliated organizations.
6. Provide the name, address, telephone number, website address (URL), and email address for any manufacturer, wholesaler, dealer, or retailer from whom VDP has purchased engine management products, exhaust products, and/or tunes during the period from November 1, 2020 to February 1, 2021.

ENCLOSURE 5

STATEMENT OF CERTIFICATION

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001, 1341 and 1505.

(Signature)

(Printed Name)

(Title)

(Date)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

NOV 8 2019

UNITED PARCEL SERVICE
EMAIL VERIFICATION REQUESTED

White's Diesel Performance, Inc.
Jake White, President
602 Church Street
Nokomis, Florida 34279

Dear Mr. White:

Pursuant to Section 208(a) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7542(a), you are hereby required to provide the U.S. Environmental Protection Agency with information relating to White's Diesel Performance, Inc.'s (WDP) business. The EPA is seeking this information to determine whether WDP is in compliance with requirements of Sections 203(a) and 213(d) of the Act, 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable motor vehicle regulations at 40 C.F.R. Parts 85, 86, and 1068.

The EPA issues this Request for Information under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA, Title II, Part A – Motor Vehicle Emission and Fuel Standards, Sections 202 – 219, 42 U.S.C. §§ 7521-7554, to perform tests and provide information necessary to determine whether the person is acting or has acted in compliance with the CAA and the regulations promulgated thereunder. The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, Region 4.

Please review the following enclosures and complete as appropriate: Instructions (Enclosure 1), Definitions (Enclosure 2), Claiming Confidentiality (Enclosure 3), Request for Information (Enclosure 4), Statement of Certification (Enclosure 5), and Response Excel Template (Enclosure 6).

Please submit the requested information to the EPA per the instructions contained in Enclosure 1. Your responses are required to be submitted **no later than thirty (30) calendar days** after WDP's receipt of this letter as determined by the date of the Email Verification, unless the EPA, for good cause shown, extends in writing the deadline for responding to the request. This information must be submitted to the following individual:

Todd Groendyke
Air Enforcement Branch
U.S. EPA, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Failure to provide the information required by this letter is a violation of the Act and may result in one or more of the following actions: (1) commencement of a civil action seeking compliance with this request pursuant to Section 204 of the Act, 42 U.S.C. § 7523; (2) issuance of an administrative penalty order pursuant to Section 205(c) of the Act, 42 U.S.C. § 7424(c); (3) commencement of a civil action in accordance with Section 205(b) of the Act, 42 U.S.C. § 7524(b); and/or (4) any other action authorized under the Act.

Under Section 208(c) of the Act, 42 U.S.C. § 7542(c), and pursuant to the regulations found at 40 C.F.R. Part 2, Subpart B, including 40 C.F.R. § 2.301, you are entitled to assert a claim of business confidentiality for any information you provide to the EPA which you regard as confidential business information (CBI). For such information, you may request that the EPA treat such information as confidential. Any such claim of confidentiality must conform to the requirements of 40 C.F.R. § 2.203(b). Note that "emission data," as defined by 40 C.F.R. § 2.301(a)(2), cannot be claimed as confidential under Section 208(c) of the Act, 42 U.S.C. § 7542(c). For detailed instructions for claiming confidentiality, please see Enclosure 3. Information you supply under a claim of confidentiality will be treated in accordance with 40 C.F.R. Part 2, Subpart B, and will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to WDP. Please note that any confidentiality claim does not obviate the need to send that portion of the response to the EPA.

The response to the information requested must be accompanied by Enclosure 5, Statement of Certification, which is to be signed and dated by a responsible official of WDP. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this request that are known to you, following a complete and thorough review of all information and sources available to you.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 – 3520, because it seeks information from specific individuals or entities as part of an investigation.

If you have any questions regarding this matter, please contact Todd Groendyke at (404) 562-8262 or by electronic mail at groendyke.todd@epa.gov.

Sincerely,



Carol L. Kemker
Director
Enforcement and Compliance Assurance Division

Enclosures

ENCLOSURE 1

Instructions

1. Provide a complete, detailed response, in English, to each Request in Enclosure 4.
2. Provide a separate response to each and every question, and each and every subpart of a question.
3. Please provide your response to all questions of this Information Request in electronic form on a disk (CD or DVD media), flash drive, hard drive, or similar digital data storage device. All responsive documents and materials (e.g., copies of print media, audio, and visual material) must be provided as an accurate and legible copy in searchable format, number stamped in sequential order (e.g., BATES stamped).
4. Please provide your responses to Requests 1 through 7 in an unlocked, electronic spreadsheet format. For your convenience, the EPA has provided Enclosure 6 which consists of an Excel template in which you are requested to organize your responses to Requests 1 through 7. If Excel format is not available, then the format should allow for data to be imported and used in calculations by a standard spreadsheet program such as Excel. You may enter your responses directly onto the provided disk or utilize your preferred form of electronic media as described in Instruction 3 above.
5. Identify each person whom you relied on or consulted with in preparing your responses to each question of this information request. Provide their name, title, job duties and duration of employment with the company. If they are not an employee of the company, identify their employer and provide their name, title, job duties and duration of employment with their employer.
6. Where a Request allows or requires documents to be provided in response, provide all documents electronically in a file folder specific to that question or subpart and labeled accordingly.
7. When a response is provided in the form of a number, specify the units of measure.
8. Where documents or information necessary for a response is not in your possession, custody, or control, indicate in your response why such documents or information are not available or in your possession, custody, or control, and identify any source that either possesses or is likely to possess such information.
9. If you assert any objections in responding to this Information Request, each objection must state with specificity the grounds for objecting to the request, including the reasons, and must state whether any responsive materials are being withheld on the basis of that objection.
10. You must promptly supplement your response to any Request in Enclosure 4 in the event you learn that you possess responsive information not yet produced or if you gain possession, custody, or control of responsive information after responding to this Information Request.

ENCLOSURE 2

Definitions

1. The term “affiliated organization” or “affiliate” means any organization or entity associated with White’s Diesel Performance, Inc. as an agent, parent organization, predecessor corporation, sister company, subsidiary organization, or any organization or entity acting in lieu of you.
2. The term “applications” means all vehicle or engine configurations.
3. The term “catalysts” means systems or devices which increase the rate of a chemical reaction but are not one of the original reactants or final products, *i.e.*, the catalyst is not consumed or altered in the reaction. The term “catalysts” includes emission control catalysts such as diesel oxidation catalysts (“DOCs”), NO_x adsorber catalysts (“NACs”), and three-way catalysts (“TWCs”).
4. The term “derate” or “derating” means an electronic control module mode that reduces the engine power or vehicle speed after the OBD system identifies a problem with the emission control equipment.
5. The term “DPF” refers to diesel particulate filters, which are exhaust aftertreatment devices that typically use a porous ceramic or cordierite substrate or metallic filter to physically trap particulate matter (“PM”) and remove it from the exhaust stream.
6. The term “element of design” means any control system (e.g., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine, as defined in 40 C.F.R. §§ 86.094-2 and 86.1803-01.
7. The term “electronic control module” or “ECM” means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. The ECM uses software programming including calculations and tables of information to provide the appropriate outputs. Multiple electronic control modules may be incorporated in a single unit to control various engine, vehicle, or equipment functions. ECM can be a generic term but may refer specifically to the engine control module when discussing emission controls on vehicles and engines. Examples of electronic control modules include, but are not limited to, the Engine Control Module, OBD Control Modules, Powertrain Control Module (“PCM”), Transmission Control Module (“TCM”), Body Control Module (“BCM”) and aftertreatment control module.
8. The term “EM product” means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information stored within or used by an ECM. EM products include, but are not limited to, programmers, modules, tuners, ECM calibration tools, replacement ECMs, flash tools, or engine management products.
9. The term “emission related parts” means those parts installed for the specific purpose of controlling emissions, or those components, systems, or elements of design which must function properly to assure continued vehicle emission compliance, as defined in 40 C.F.R. § 85.2102.

10. The term “engine tune,” “tune,” or “calibration” means any combination of software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information, stored in any form, capable of affecting or controlling an ECM.
11. The term “entity” means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization or association.
12. The term “exhaust product” means exhaust components designed for use downstream from the exhaust port of a motor vehicle engine, and include, but are not limited to turbochargers, EGR block plates, EGR delete kits, EGR reroute kits, exhaust replacement pipes, downpipe-back exhaust systems, turbo-back exhaust systems, race pipes, test pipes and straight pipes.
13. The term “exhaust gas recirculation” or “EGR” means systems which redirect, usually by use of an EGR valve, a portion of engine exhaust back into the engine’s combustion chamber to cool and reduce peak combustion temperatures and pressures, thereby reducing the production of nitrogen oxides (“NOx”). The EGR system may include an EGR cooler to cool the recirculated exhaust to further reduce the combustion temperature.
14. The term “information” includes any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intraoffice communications, electronic mail (“email”), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting, or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, presentations, spreadsheets, and worksheets. The term “information” includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term “information” also includes any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back-up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. Information bearing any notation not part of the original text is considered to be separate information. A draft or non-identical copy is separate information within the meaning of this term.
15. The term “manufacture” includes the creation, design, development, alteration, fabrication, production, or programming of a software code, software, hardware, program, element of design, calibration, engine tune, EM product, engine tuner, device, part, or component.

16. The term "onboard diagnostics" or "OBD" means systems which monitor components' emission-related systems and assists repair technicians in diagnosing and fixing problems with those emission-related systems. If a problem is detected, an OBD system should record a Diagnostic Trouble Code ("DTC"), illuminate a Malfunction Indicator Light ("MIL") or other warning lamp on the vehicle instrument panel, and/or provide information to the ECM which induces Engine Derate due to malfunctioning or missing emission-related systems.
17. The term "person" includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
18. The term "product" includes any software code, software, hardware, program, element of design, calibration, engine tune, EM product, device, part or component.
19. The term "you," "your," and "WDP" means White's Diesel Performance, Inc., and any affiliates, predecessors, successors, assignees, agents, employees, representatives, investigators, accountants, auditors, attorneys, experts, consultants, and contractors. These terms shall also mean any others who are not listed above and are in possession, custody, or control (actual or constructive) of information relevant to this request or information that is otherwise available to White's Diesel Performance, Inc., or who may have obtained information for or on behalf of White's Diesel Performance, Inc.
20. The term "SCR system" refers to the selective catalytic reduction system, which is an exhaust aftertreatment device designed to reduce NOx emissions by injecting a liquid reagent through a catalyst.
21. The term "service" means any action to change, affect, modify, bypass, render inoperative, remove, download and/or install one or more part(s) or component(s) (e.g., emission control components) or other item(s), including, but not limited to, engine parts, block plates, straight pipes, power packages, computer tuning, calibrations, elements of design, tuners, tunes, software, code, or devices.

All terms not defined in this enclosure have their ordinary meaning, unless such terms are defined in the Clean Air Act and/or its implementing regulations, and in which case the statutory and/or regulatory definitions apply. Words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions. The terms "and" and "or" shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this information request any information which might otherwise be construed to be outside its scope.

ENCLOSURE 3

Confidential Business Information (CBI) Assertion and Substantiation Requirements

A. Assertion Requirements

You may assert a business confidentiality claim covering part or all of the information, other than emissions data and information or data that is otherwise publicly available, as described in 40 C.F.R. § 2.203(b). If no business confidentiality claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice. To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any information over which you make a claim of confidentiality should be marked by placing on or attaching to the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret" or "proprietary" or "business confidential" and a date if any when the information should no longer be treated as confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. Information covered by such a claim will be disclosed by the EPA only to the extent permitted and by means of the procedures set forth by Section 208(c) of the Act, and 40 C.F.R. Part 2, Subpart B.

B. Substantiation Requirements

All confidentiality claims are subject to the EPA verification and must be made in accordance with 40 C.F.R. Part 2, Subpart B. You bear the burden of substantiating your confidentiality claim and must satisfactorily show that disclosure of the information would be likely to cause substantial harm to your business' competitive position; that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; and that the information is not and has not been reasonably obtainable by legitimate means without your consent, among other things. Conclusory allegations will be given little or no weight.

Before the EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, the EPA will send you a letter asking you to substantiate fully your CBI claim by answering 11 questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. You must provide the EPA with a response within the number of days set forth in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

The EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied. Any information not specifically identified as subject to a confidentiality claim may be disclosed without further notice to you. For each item or class of information that you identify as being confidential, the EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in the EPA's determination:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. For each item or category of information claimed as confidential, explain with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
8. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
9. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.
10. If you believe any information to be (a) trade secret (s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret (s).
11. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data).

Please note that emission data provided under Section 208 of the Act, 42 U.S.C. § 7542, is not entitled to confidential treatment under 40 C.F.R. Part 2. "Emission data" means, with reference to any source of emission of any substance into the air - (A) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission

which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing; (B) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and (C) a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

ENCLOSURE 4

Request for Information

White's Diesel Performance, Inc., shall submit the following information to the EPA, pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, regarding certain parts or components that you either manufactured (i.e., created, wrote, programmed, fabricated, produced, or modified), offered for sale, sold, or installed since October 1, 2018.

Provide the following information in Enclosure 6, worksheet 1.

1. Identify each EM product WDP manufactured, sold, offered for sale, or installed during the period from October 1, 2018, through the date of this letter, in Enclosure 6, worksheet 1, and provide the:
 - a. Part Number, Item Code, or other unique identifier used by WDP;
 - b. Product name;
 - c. Product manufacturer (if different);
 - d. Identify the product's applications by vehicle type, make, model, and year;
 - e. Quantity WDP sold during the period October 1, 2018, through the date of this Information Request;
 - f. Average WDP sale price;
 - g. Indicate if you advertised this product and provide the electronic file names of each advertisement (if applicable);
 - h. Identify whether the product affects or changes fuel delivery rate, timing of mixtures, diagnostics, turbo boost, or other engine parameters or calibrations.
 - i. Describe how the product differs from the stock components it replaces or specifically changes the stock configuration. You may provide owner's or installation manuals for a product in lieu of a narrative description if you identify the electronic names of the files.
 - j. Is the product sold with or without the following:
 - i. Tunes;
 - ii. Tunes from the EM product manufacturer;
 - iii. Tunes manufactured by you;
 - iv. Tunes manufactured by you sold without an EM product (i.e. calibration file only);
 - v. If no to i – iv, describe the product in detail.
 - k. If the product includes a tune manufactured by you provide the following:
 - i. The software used to develop the tune;
 - ii. The developer of the software; and
 - iii. A list of compatible EM products.
 - l. Does the product permanently or temporarily change, affect, or bypass a motor vehicle's emission related parts, including but not limited to the:
 - i. EGR;
 - ii. DPF
 - iii. SCR;
 - iv. catalyst;
 - v. OBD; or
 - vi. any sensors, signals, or records related to these systems;

- m. Indicate whether the product modifies, interferes, or overrides the vehicles' OBD system;
 - n. Indicate whether the product replaces or overwrites an ECM;
 - o. Indicate whether, together with the addition, modification, or removal of a motor vehicle's parts, the product has the effect to permanently or temporarily change, affect, bypass, defeat, or render inoperative a motor vehicle emission control device or emission related part; and
 - p. Quantity company installed during the period October 1, 2018, through the date of this Information Request.
2. For each product identified in response to Request 1, indicate in Enclosure 6, worksheet 1 whether:
- a. the product is capable of disabling the EGR without illuminating a MIL or prompting any on-board DTC;
 - b. WDP has sold a version of the product that, upon installation and without post-sale modification of the product, disables or allows the end user to disable the EGR without illuminating a MIL or prompting any DTC;
 - c. the product is capable of disabling the EGR without any engine derating;
 - d. WDP has sold a version of the product that, upon installation and without post-sale modification of the product, disables or allows the end user to disable the EGR without any engine derating;
 - e. the product is capable of allowing the removal of the EGR without illuminating a MIL or prompting any on-board DTC;
 - f. WDP has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the EGR without illuminating a MIL or prompting any DTC;
 - g. the product is capable of allowing the removal of the EGR without any engine derating;
 - h. WDP has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the EGR without any engine derating;
 - i. the product is capable of allowing removal of a DPF without illuminating a MIL or prompting any DTC;
 - j. WDP has sold a version of the product that, upon installation and without post-sale modification of the product, allows the removal of the DPF without illuminating a MIL or prompting any DTC;
 - k. the product is capable of allowing removal of a DPF without any engine derating;
 - l. WDP has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a DPF without any engine derating;
 - m. the product is capable of disabling or allowing removal of a SCR system without illuminating a MIL or prompting any DTC;
 - n. WDP has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a SCR system without illuminating a MIL or prompting any DTC;
 - o. the product is capable of allowing removal of a SCR system without any engine derating;
 - p. WDP has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a SCR system without any engine derating;
 - q. the product is capable of allowing removal of a catalyst without illuminating a MIL or prompting any DTC;

- r. WDP has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a catalyst without illuminating a MIL or prompting any DTC;
 - s. the product is capable of allowing removal of a catalyst without any engine derating;
 - t. WDP has sold a version of the product that, upon installation and without post-sale modification of the product, allows removal of a catalyst without any engine derating;
 - u. WDP has sold a version of the product that, upon installation and without post-sale modification of the product, alters fuel timing maps within engine electronic calibrations;
 - v. the product is capable of bypassing or altering parameters to prevent DTCs or MILs from being recorded or illuminated; and
 - w. WDP has sold a version of the product that, upon installation and without post-sale modification of the product, prevents DTCs or MILs from being recorded or illuminated.
3. For each product identified in response to Request 1 which WDP sold during the period October 1, 2018, through the date of this Information Request, provide all sales information using the format provided in Enclosure 6, worksheet 2. WDP may provide the requested information in an electronic spreadsheet exported from an invoice management program such as QuickBooks in lieu of using Enclosure 6, worksheet 2.
4. Identify each exhaust product manufactured, sold, offered for sale, or installed during the period from October 1, 2018, through the date of this letter, in Enclosure 6, worksheet 3, and provide the:
- a. Part Number, Item Code, or other unique identifier used by WDP;
 - b. Product name;
 - c. Product manufacturer (if different);
 - d. Identify the product's applications by vehicle type, make, model, and year;
 - e. Quantity WDP sold during the period October 1, 2018, through the date of this Information Request;
 - f. Average WDP sale price;
 - g. Indicate if you have advertised this product and provide electronic file names of each advertisement (if applicable);
 - h. Describe how the product differs from the stock components it replaces or specifically changes the stock configuration. You may provide owner's or installation manuals for a product in lieu of a narrative description if you identify the electronic names of the files.
 - i. Does the product permanently or temporarily changes, affects, or bypasses a motor vehicle's emission related parts, including but not limited to the:
 - i. EGR;
 - ii. DPF;
 - iii. SCR;
 - iv. Catalyst;
 - v. OBD; or
 - vi. any sensors, signals, or records related to these systems;
 - j. Indicate whether, together with the addition, modification, or removal of a motor vehicle's parts, the product has the effect to permanently or temporarily change, affect, bypass, defeat, or render inoperative a motor vehicle emission control device or emission related part; and
 - k. Quantity WDP installed during the period October 1, 2018, through the date of this

Information Request.

5. For each product identified in response to Request 4 which WDP sold during the period October 1, 2018, through the date of this Information Request, provide all sales information using the format provided in Enclosure 6, worksheet 4. WDP may provide the requested information in an electronic spreadsheet exported from an invoice management program such as QuickBooks in lieu of using Enclosure 6, worksheet 4.

Provide the following information in Enclosure 6, worksheet 5.

6. For products identified in response to Requests 1 and 4, state whether WDP or any other entity conducted tests measuring emissions of hydrocarbons, carbon monoxide, nitrogen oxides, or particulate matter, including tests that measure the impact of the product on motor vehicle emissions or that measure the impact of the product on a vehicle's emission control devices or elements of design. For each such test, provide the following information:
 - a. a description of the test, including identification of the product and vehicle, the EPA engine family, name of the vehicle, test equipment, test protocols, and calibration procedures;
 - b. any training or instructional materials used for educating employees and affiliates about how to perform the test; and
 - c. the date and location of the test, the name and position of the person that conducted the test, and the test results.
7. For products that are identified in response to Requests 1 and 4:
 - a. State whether WDP or any other entity submitted an application for an Executive Order to the California Air Resources Board;
 - i. if so, provide a copy of the application for each product.
 - b. State whether each product received an Executive Order exempting the product from California's emission control system anti-tampering law, California Vehicle Code § 27156.
 - c. If the product received an Executive Order, provide the Executive Order number; and
 - d. If the product received an Executive Order, state whether the California Air Resources Board required changes to the product or application to receive approval.

Provide the following information.

8. Provide a complete, unedited copy of every estimate, work order, invoice and final bill for each vehicle serviced by WDP between October 1, 2018, and the date of this request, including copies of all attachments.
9. For each product identified in response to Requests 1 and 4:
 - a. provide a detailed written description of all methods by which the product has been promoted or publicized by WDP, including but not limited to, print media, commercial websites, point-of-sale webpages, event promotion or sponsorship, trade show promotion, or social media promotion, including promotion dates and/or date ranges, if applicable;
 - b. provide copies of all advertisements for the product published in print or electronic media, including commercial websites, point-of-sale webpages, or social media;

- c. provide a list of other entities known to have advertised the product; and
 - d. provide all manuals available (e.g., owner's and installation).
10. Provide a detailed, written description of WDP's business structure including ownership, corporate form, parent, sister and/or subsidiary companies, and affiliated organizations.
11. Provide the location of all warehouses or storage facilities where WDP stores products.

ENCLOSURE 5

STATEMENT OF CERTIFICATION

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001, 1341 and 1505.

(Signature)

(Printed Name)

(Title)

(Date)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

MAR 17 2020

UNITED PARCEL SERVICE
EMAIL VERIFICATION REQUESTED

Kyle Ensley, Owner
X-Ploit Diesel Performance
101 N. Gate Industrial Drive
Ball Ground, Georgia 30107

Dear Mr. Ensley:

Pursuant to Section 208(a) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7542(a), you are hereby required to provide the U.S. Environmental Protection Agency with information relating to X-Ploit Diesel Performance (XPDP) business. The EPA is seeking this information to determine whether XPDP is in compliance with requirements of Sections 203(a) and 213(d) of the Act, 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable motor vehicle regulations at 40 C.F.R. Parts 85, 86, and 1068.

The EPA issues this Request for Information under Section 208(a) of the CAA, 42 U.S.C. § 7542(a). Under Section 208(a), the Administrator of the EPA may require any person who is subject to the CAA, Title II, Part A – Motor Vehicle Emission and Fuel Standards, Sections 202 – 219, 42 U.S.C. §§ 7521-7554, to perform tests and provide information necessary to determine whether the person is acting or has acted in compliance with the CAA and the regulations promulgated thereunder. The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, Region 4.

Please review the following enclosures and complete as appropriate: Instructions (Enclosure 1), Definitions (Enclosure 2), Claiming Confidentiality (Enclosure 3), Request for Information (Enclosure 4), and Statement of Certification (Enclosure 5).

Please submit the requested information to the EPA per the instructions contained in Enclosure 1. Your responses are required to be submitted **no later than thirty (30) calendar days** after XPDP's receipt of this letter as determined by the date of the Email Verification, unless the EPA, for good cause shown, extends in writing the deadline for responding to the request. This information must be submitted to the following individual:

Aleeka Broner
Air Enforcement Branch
U.S. EPA, Region 4
Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303

Failure to provide the information required by this letter is a violation of the Act and may result in one or more of the following actions: (1) commencement of a civil action seeking compliance with this request pursuant to Section 204 of the Act, 42 U.S.C. § 7523; (2) issuance of an administrative penalty order pursuant to Section 205(c) of the Act, 42 U.S.C. § 7424(c); (3) commencement of a civil action in accordance with Section 205(b) of the Act, 42 U.S.C. § 7524(b); and/or (4) any other action authorized under the Act.

Under Section 208(c) of the Act, 42 U.S.C. § 7542(c), and pursuant to the regulations found at 40 C.F.R. Part 2, Subpart B, including 40 C.F.R. § 2.301, you are entitled to assert a claim of business confidentiality for any information you provide to the EPA which you regard as confidential business information (CBI). For such information, you may request that the EPA treat such information as confidential. Any such claim of confidentiality must conform to the requirements of 40 C.F.R. § 2.203(b). Note that "emission data," as defined by 40 C.F.R. § 2.301(a)(2), cannot be claimed as confidential under Section 208(c) of the Act, 42 U.S.C. § 7542(c). For detailed instructions for claiming confidentiality, please see Enclosure 3. Information you supply under a claim of confidentiality will be treated in accordance with 40 C.F.R. Part 2, Subpart B, and will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to XPDP. Please note that any confidentiality claim does not obviate the need to send that portion of the response to the EPA.

The response to the information requested must be accompanied by Enclosure 5, Statement of Certification, which is to be signed and dated by a responsible official of XPDP. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this request that are known to you, following a complete and thorough review of all information and sources available to you.

This request is not subject to the Paperwork Reduction Act, 44 U.S.C. §§ 3501 – 3520, because it seeks information from specific individuals or entities as part of an investigation.

If you have any questions regarding this matter, please contact Aleeka Broner at (404) 562-9186 or by electronic mail at broner.aleeka@epa.gov.

Sincerely,



Carol L. Kemker
Director
Enforcement and Compliance Assurance Division

Enclosures

ENCLOSURE 1

Instructions

1. Provide a complete, detailed response, in English, to each Request in Enclosure 4.
2. Provide a separate response to each and every question.
3. Please provide your response to all questions of this Information Request in electronic form on a disk (CD or DVD media), flash drive, hard drive, or via electronic file transfer. All responsive documents and materials (e.g., copies of print media, audio, and visual material) must be provided as an accurate and legible copy in searchable format, number stamped in sequential order (e.g., BATES stamped).
4. Identify each person whom you relied on or consulted with in preparing your responses to each question of this information request. Provide their name, title, job duties and duration of employment with the company. If they are not an employee of the company, identify their employer and provide their name, title, job duties and duration of employment with their employer.
5. Where a Request allows or requires documents to be provided in response, provide all documents electronically in a file folder specific to that question or subpart and labeled accordingly.
6. Where documents or information necessary for a response is not in your possession, custody, or control, indicate in your response why such documents or information are not available or in your possession, custody, or control, and identify any source that either possesses or is likely to possess such information.
7. If you assert any objections in responding to this Information Request, each objection must state with specificity the grounds for objecting to the request, including the reasons, and must state whether any responsive materials are being withheld on the basis of that objection.
8. You must promptly supplement your response to any Request in Enclosure 4 in the event you learn that you possess responsive information not yet produced or if you gain possession, custody, or control of responsive information after responding to this Information Request.

ENCLOSURE 2

Definitions

1. The term “**affiliated organization**” or “**affiliate**” means any organization or entity associated with X-Ploit Diesel Performance, as an agent, parent organization, predecessor corporation, sister company, subsidiary organization, or any organization or entity acting in lieu of you.
2. The term “**element of design**” means any control system (e.g., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine, as defined in 40 C.F.R. §§ 86.094-2 and 86.1803-01.
3. The term “**electronic control module**” or “**ECM**” means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. The ECM uses software programming including calculations and tables of information to provide the appropriate outputs. Multiple electronic control modules may be incorporated in a single unit to control various engine, vehicle, or equipment functions.
4. The term “**engine management product**” or “**EM product**” means any device or product capable of accessing, altering, or replacing the software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information stored within or used by an ECM. EM products include, but are not limited to, programmers, modules, tuners, ECM calibration tools, replacement ECMs, flash tools, or engine management products.
5. The term “**emission related parts**” means those parts installed for the specific purpose of controlling emissions, or those components, systems, or elements of design which must function properly to assure continued vehicle emission compliance, as defined in 40 C.F.R. § 85.2102.
6. The term “**engine tune**,” “**tune**,” or “**calibration**” means any combination of software programming, calculations, computer logic, tables of information (e.g., fuel timing maps), coding, or other content or information, stored in any form, capable of affecting or controlling an ECM.
7. The term “**entity**” means any natural person, corporation, partnership, limited liability company, sole proprietorship, joint venture, or any formal or informal group, organization or association.
8. The term “**exhaust product**” means exhaust components designed for use downstream from the exhaust port of a motor vehicle engine, and include, but are not limited to turbochargers, EGR block plates, EGR delete kits, EGR reroute kits, EGR solution kits, aftermarket EGR coolers, exhaust replacement pipes, downpipe-back exhaust systems, turbo-back exhaust systems, race pipes, test pipes and straight pipes.
9. The term “**exhaust gas recirculation**” or “**EGR**” means systems which redirect, usually by use of an EGR valve, a portion of engine exhaust back into the engine’s combustion chamber to cool and reduce peak combustion temperatures and pressures, thereby reducing the production of nitrogen oxides (“NO_x”). The EGR system may include an EGR cooler to cool the recirculated exhaust to further reduce the combustion temperature.

10. The term “**information**” includes any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intraoffice communications, electronic mail (“email”), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting, or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, presentations, spreadsheets, and worksheets. The term “information” includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto. The term “information” also includes any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voicemails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back-up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. Information bearing any notation not part of the original text is considered to be separate information. A draft or non-identical copy is separate information within the meaning of this term.
11. The term “**person**” includes an individual, corporation, partnership, or association. *See* Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
12. The term “**product**” includes any software code, software, hardware, program, element of design, calibration, engine tune, EM product, device, part or component.
13. The term “**you**,” “**your**,” and “**XPDP**” means X-Ploit Diesel Performance, and any affiliates, predecessors, successors, assignees, agents, employees, representatives, investigators, accountants, auditors, attorneys, experts, consultants, and contractors. These terms shall also mean any others who are not listed above and are in possession, custody, or control (actual or constructive) of information relevant to this request or information that is otherwise available to X-Ploit Diesel Performance, or who may have obtained information for or on behalf of X-Ploit Diesel Performance.
14. The term “**service**” means any action to change, affect, modify, bypass, render inoperative, remove, download and/or install one or more part(s) or component(s) (e.g., emission control components) or other item(s), including, but not limited to, engine parts, turbochargers, block plates, straight pipes, power packages, computer tuning, calibrations, elements of design, tuners, tunes, software, code, or devices.

All terms not defined in this enclosure have their ordinary meaning, unless such terms are defined in the Clean Air Act and/or its implementing regulations, and in which case the statutory and/or regulatory definitions apply. Words in the singular shall be construed in the plural, and vice versa, where

appropriate in the context of a particular question or questions. The terms “**and**” and “**or**” shall be construed either conjunctively or disjunctively as necessary to bring within the scope of this information request any information which might otherwise be construed to be outside its scope.

ENCLOSURE 3

Confidential Business Information (CBI) Assertion and Substantiation Requirements

A. Assertion Requirements

You may assert a business confidentiality claim covering part or all of the information, other than emissions data and information or data that is otherwise publicly available, as described in 40 C.F.R. § 2.203(b). If no business confidentiality claim accompanies the information when it is received by the EPA, the EPA may make the information available to the public without further notice. To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any information over which you make a claim of confidentiality should be marked by placing on or attaching to the information, at the time it is submitted to the EPA, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret" or "proprietary" or "business confidential" and a date if any when the information should no longer be treated as confidential. **You must be specific by page, paragraph, and sentence when identifying the information subject to your claim.** Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. Information covered by such a claim will be disclosed by the EPA only to the extent permitted and by means of the procedures set forth by Section 208(c) of the Act, and 40 C.F.R. Part 2, Subpart B.

B. Substantiation Requirements

All confidentiality claims are subject to the EPA verification and must be made in accordance with 40 C.F.R. Part 2, Subpart B. You bear the burden of substantiating your confidentiality claim and must satisfactorily show that disclosure of the information would be likely to cause substantial harm to your business' competitive position; that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; and that the information is not and has not been reasonably obtainable by legitimate means without your consent, among other things. Conclusory allegations will be given little or no weight.

Before the EPA makes a final determination regarding your claim of confidentiality, pursuant to 40 C.F.R. Part 2, Subpart B, the EPA will send you a letter asking you to substantiate fully your CBI claim by answering 11 questions. Your comments in response to these questions will be used by the EPA to determine whether the information has been shown to meet the requirements so as to be entitled to confidential treatment. You must provide the EPA with a response within the number of days set forth in the EPA request letter. Failure to submit your comments within that time will be regarded as a waiver of your confidentiality claim or claims, and the EPA may release the information.

The EPA will ask you to specify which portions of the information you consider confidential. You must be specific by page, paragraph, and sentence when identifying the information subject to your claim. Please note that if a page, document, group or class of documents claimed by you to be confidential contains a significant amount of information which the EPA determines is not confidential, your confidentiality claim regarding that page, document, group or class of documents may be denied. Any information not specifically identified as subject to a confidentiality claim may be disclosed without further notice to you. For each item or class of information that you identify as being confidential, the EPA will ask you to answer the following questions, giving as much detail as possible, as conclusory allegations will be given little or no weight in the EPA's determination:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question #1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.
5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
7. For each item or category of information claimed as confidential, explain with specificity why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
8. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.
9. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.
10. If you believe any information to be (a) trade secret (s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret (s).
11. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data).

Please note that emission data provided under Section 208 of the Act, 42 U.S.C. § 7542, is not entitled to confidential treatment under 40 C.F.R. Part 2. "Emission data" means, with reference to any source of emission of any substance into the air - (A) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission

which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing; (B) information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner and rate of operation of the source); and (C) a general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source).

40 C.F.R. §§ 2.301(a)(2)(i)(A), (B) and (C).

ENCLOSURE 4

Request for Information

X-Ploit Diesel Performance shall submit the following information to the EPA, pursuant to Section 208 of the CAA, 42 U.S.C. § 7542, regarding certain parts or products that you either installed, serviced or sold since January 1, 2020.

1. Provide a complete, unedited copy of every work order for every vehicle serviced by XPDP between January 1, 2020, and the date of this request, including copies of all attachments.
2. Provide a complete, unedited copy of every service invoice for every vehicle serviced by XPDP between January 1, 2020, and the date of this request, including copies of all attachments
3. Provide copies of invoices for all engine management products and exhaust products purchased by XPDP from January 1, 2020, through the date of this Information Request.
4. Provide copies of invoices for all engine management products and exhaust products sold by XPDP from January 1, 2020, through the date of this Information Request.

ENCLOSURE 5

STATEMENT OF CERTIFICATION

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001, 1341 and 1505.

(Signature)

(Printed Name)

(Title)

(Date)

